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Orbital Research Inc.
4415 Euclid Avenue
Suite 500
Cleveland OH 44103

MAILED
SEP 14 2010
OFFICE OF PETITIONS

In re Application of :
Mehul PATEL et al. :
Application No. 11/415,535 : **ON PETITION**
Filed: May 2, 2006 :
Attorney Docket No. ORB-039 :

This is in response to the petition under 37 CFR 1.183, filed November 19, 2009, on behalf of The University of Norte Dame du Lac, requesting waiver of the requirements of 37 CFR 1.32(b)(4).

The petition is **GRANTED** to the extent indicated below.

Petitioner, The University of Norte Dame du Lac, requests the USPTO to: (1) appoint practioners associated with Customer Number 26530 as its sole representative before the USPTO; and (2) and (2) waive the single signature requirements of Rule 1.32(b)(4) due to divergent interests in the subject matter of the instant application.

The application as filed named Mehul Patel (Patel) and Thomas Corke (Corke) as inventors. Both of the inventors gave Power of Attorney to Brian M. Kolkowski, Reg. No. 36,847. Inventorship is the starting point for determining ownership. *See University Patents, Inc. v. Kligman*, 762 F. Supp. 1212, 1218-19, 20 USPQ2d 1401, 1405 (E.D. Pa. 1991). Unless there is an assignment, the USPTO will presume the named inventor(s) to be the owner(s), see 37 CFR 3.73(a). The assignment records indicate at reel 017963 frame 0670 that Corke assigned his rights to The University of Notre Dame du Lac, and at reel 018205 frame 0898 Patel assigned his rights to Orbital Research Inc. Thus, The University of Notre Dame du Lac, and Orbital Research Inc. each have an equal interest in the instant application. *See Ethicon, Inc. v. United States Surgical Corp.*, 135 F.3d 1456, 1465, 45 USPQ2d 1545, 1552 (Fed. Cir. 1998), *cert denied*, 525 U.S. 923 (1998). As such, neither The University of Notre Dame du Lac nor Orbital Research Inc. own the entire interest in this application; rather they are each but a *partial* assignee. But see 37 CFR 3.71(b)(2). However, only the owner of the *entire* interest in an application has the sole right to control prosecution of an application. *See In re Goldstein*, 16

USPQ2d 1963, 1964 (Comm'r Pat. 1988); see also *In re Scold*, 195 USPQ 335,336 (Comm'r Pat. 1976); *Ex parte Harrison*, 1925 Dec. Comm'r Pat. 122, 123 (Comm'r Pat. 1924). The procedures set forth in the regulations (e.g., 37 CFR §§ 1.36, 3.71, and 3.73(b)) serve to assure that papers filed with USPTO in an application or patent are submitted on behalf of the owner(s) of the *entire* interest in the application or patent. See *Goldstein*, 16 USPQ2d at 1964. Accordingly, it would also be contrary to intent of the regulations to permit *ex parte*, by waiver of the rules, to have either party unilaterally extinguish the property rights of the other in this application. Since The University of Notre Dame du Lac and Orbital Research Inc. have divergent interests, no one side can reasonably expect or be permitted to control the prosecution of this application to the exclusion of the other(s).


In accordance with MPEP 402.10, the requested appointment of the practitioners associated with Customer Number 26530 to represent The University of Notre Dame du Lac as the intervening successor in title to Corke is **granted** as of the mail date of this decision.

In order to assure that all interests are properly and effectively represented, all further correspondence to the United States Patent and Trademark Office (USPTO) in this application – or resultant patent—must be signed by both: (1) Brian K. Kolkowski, Reg. No. 36,847 who represents Orbital Research Inc.; and (2) a registered practitioner of Customer Number 26530 who represents The University of Notre Dame du Lac. Any counsel when signing subsequent papers must indicate whom he or she represents. Brian K. Kolkowski will also be responsible for coordinating replies or submissions to the USPTO. See MPEP 402.10.

In view of the above decision, the correspondence address remains with that of Customer Number 81257.

All parties are reminded that dual correspondence is not permitted, and will not be undertaken by the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7099.


David Bucci
Petitions Examiner
Office of Petitions

Cc: Ladas & Parry LLP
224 South Michigan Ave.
Suite 1600
Chicago, IL 60604



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DEC 19 2011

OFFICE OF PETITIONS

In re Application of
FAN, ZHIGANG
Application No. 11/415,625
Filed: 05/02/2006
Attorney Docket No. 20051620USNP-
XER1162US01

: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3)

This is a decision on the petition under 37 CFR 1.78(a)(3), filed November 29, 2011, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional Application No. 10/866,850 filed June 14, 2004, set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The reference to add the above-noted prior-filed application in the first sentence of the specification on page one following the title is not acceptable as drafted since it improperly incorporates by reference prior-filed Application No. 10/866,850.

Pursuant to MPEP 201.11(III)(F),

An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (see 35 U.S.C. 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim after the filing date of the application, the amendment would not be proper. When a benefit claim is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application unless an incorporation by reference statement of the prior application was presented upon filing of the application. See Dart Indus. v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980).

If reconsideration of this decision is desired, a renewed petition under 37 CFR 1.78(a)(3) and a supplemental Application Data Sheet or an amendment removing the incorporation by reference statement is required. The Office notes that 37 CFR 1.33(b) requires that amendments and other papers, except for written assertions pursuant to 37 CFR 1.27(c)(2)(ii), filed in an application must be signed by an appropriate party. Therefore, a supplemental Application Data Sheet or an amendment submitted after the filing of an application must be signed in accordance with 37 CFR 1.33(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Correspondence may also be submitted via the Electronic Filing System of the USPTO.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3211.

/Christina Tartera Donnell/

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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JAN 12 2012

OFFICE OF PETITIONS

In re Application of	: DECISION GRANTING PETITION
Zhigang Fan	: UNDER 37 CFR 1.78(a)(3)
Application No. 11/415,625	:
Filed: May 2, 2006	:
Attorney Docket No. 20051620USNP-	:
XER1162US01	:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed January 9, 2012, to accept an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional Application No. 10/866,850 filed June 14, 2004, set forth in the concurrently filed amendment.

The renewed petition is **GRANTED**.

A petition for acceptance of an unintentionally delayed claim under 35 U.S.C. 120 for the benefit of prior-filed nonprovisional applications pursuant to 37 CFR 1.78(a)(3) is applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the benefit claim under 35 U.S.C. 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the benefit claim to the prior-filed nonprovisional application, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3211. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 2624 for consideration by the examiner of applicant's entitlement to claim benefit under 35 U.S.C. 120 to the prior-filed applications.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/415,625	05/02/2006	2624	1000	20051620USNP-XER1162US01	18	3

CONFIRMATION NO. 4893

CORRECTED FILING RECEIPT



OC000000051976779

Date Mailed: 01/12/2012

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Zhigang Fan, Webster, NY;

Assignment For Published Patent Application

XEROX CORPORATION

Power of Attorney: The patent practitioners associated with Customer Number 027885

Domestic Priority data as claimed by applicant

This application is a CIP of 10/866,850 06/14/2004 PAT 7376272

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 05/23/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/415,625**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

Method for image segmentation based on block clustering for improved processing of touching characters

Preliminary Class

382

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER**Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

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Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: **GSIL0185PUSP2**

Patent Number: **7666759**

Filing Date
(or 371(b) or (f) Date): **May-02-2006**

Issue Date: **2-Feb-2010**

First Named
Inventor: **COUCH, BRUCE L.**

Title: **METHOD AND SYSTEM FOR HIGH-SPEED, PRECISE MICROMACHINING AN ARRAY OF DEVICES**

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature **/John E Nemazi/**

Date **13-Aug-2010**

Name
(Print/Typed) **John E. Nemazi**

Registration Number **30,876**

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF *WYETH**
(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

Mail Date: 08/20/2010

Applicant	: Bruce L. Couch	: DECISION ON REQUEST FOR
Patent Number	: 7666759	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/415,653	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/02/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **704** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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THORPE NORTH & WESTERN, LLP
P.O. BOX 1219
SANDY, UT 84091-1219

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of :
Christopher Lunt, et al. :
Application No. 11/415,691 : **DECISION ON PETITION**
Filed: May 2, 2006 :
Attorney Docket No. 2913-019.NP :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 11, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, August 4, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 5, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2178 for appropriate action by the Examiner in the normal course of business on the reply received January 11, 2011.

A handwritten signature in cursive script, appearing to read "April M. Wise".

April M. Wise
Petitions Examiner
Office of Petitions



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VOLPE AND KOENIG, P.C.
UNITED PLAZA
30 SOUTH 17TH STREET
PHILADELPHIA PA 19103

MAILED
APR 29 2011
OFFICE OF PETITIONS

In re Patent No. 7,740,746 :
Issue Date: June 22, 2010 :
Application No. 11/415,720 : **DECISION ON PETITION**
Filed: May 2, 2006 :
Attorney Docket No. DEE-PT113.2 :

This is a decision on the Request Under 37 C.F.R. §3.81 and Request For Certificate Of Correction, filed December 23, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to remove assignee's name since patentee did not record an assignment because no assignment was made. A completed Certificate of Correction Form (PTO/SB/44) was submitted with the petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present Petition was submitted to remove assignee's name on the previously submitted PTOL-85B and such error was of a clerical nature. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to remove assignee's name to the Title Page of the Letters Patent.

The requisite \$100.00 fee (Fee Code 1811) as set forth under 37 CFR 1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,740,746.

Cheryl Gibson-Baylor
Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7267145	2007-09-11	11415779	2006-05-02	MAT-101533C1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/s Jovan N. Jovanovic/	Date (YYYY-MM-DD)	2012-02-03
Name	Jovan N. Jovanovic	Registration Number	40039
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Patent No. 7267145 :
Issue Date: September 11, 2007 :
Application No. 11415779 :DECISION GRANTING PETITION
Filed: May 2, 2006 :UNDER 37 CFR 1.378(c)
Attorney Docket No. MAT-101533C1 :

This is a decision on the electronic petition, filed February 3, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 3, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.



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Paper No.

MESCHKOW & GRESHAM, P.L.C.
7250 NORTH SIXTEENTH STREET
SUITE 318
PHOENIX AZ 85020-5279

MAILED

NOV 14 2011

OFFICE OF PETITIONS

In re Patent No. 7,596,351 :
Issue Date: September 29, 2009 :
Application No. 11/415,825 : ON PETITION
Filed: May 2, 2006 :
Attorney Docket No. 2324-430 :
:

This is in response to the Request For Issuance of Patent to Assignee Under 37 CFR 3.81(b) Request For Certificate of Correction Under 37 CFR 1.323 filed February 16, 2010, which is properly treated as a request under 37 CFR 3.81(b) to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction. This request was recently forwarded to the undersigned for consideration.

The request is **GRANTED**.

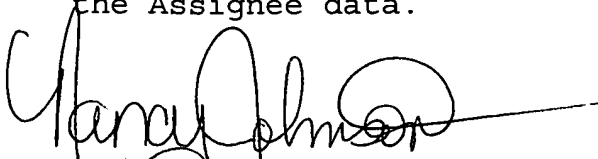
Pursuant to the issue fee transmittal filed October 19, 2010, the patent issued in the name of assignee "Freescale Semiconductor, Inc." Patentee files this request, requesting that the name of the assignee be corrected to "Sigmatel, Inc." and submits a certificate of correction for this purpose.

Patentee's evidence and Office records show that the assignment of the above-identified application to "Sigmatel, Inc." was recorded on May 2, 2006. The recording of the assignment (Reel/Frame 017861/0112) occurred before issuance of the patent on September 29, 2009. There is no assignment of record (only security agreements) to Freescale Semiconductor.

Receipt of the required \$100 certificate of correction fee and the required \$130 processing fee is acknowledged.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3219. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch has been notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction to correct the Assignee data.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long horizontal flourish extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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Date

October 19, 2011

Patent No. :7580671
Ser. No. :11415826
Inventor(s) :Mathew D. Felder
Issued :August 25, 2009
Title :AUDIO SYSTEM, RADIO RECORD MODULE AND METHODS FOR USE
:THEREWITH

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS

Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

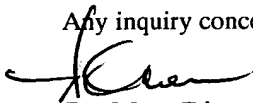
By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

Electronic Filing uspto.gov/ebc/index.html
(must be registered as an e-filer)
Support 1-866-217-9197 571-272-4100

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Any inquiry concerning this communication should be directed to Ms. A. Green at 571-272-9005.



For Mary Diggs
Decisions & Certificates
of Correction Branch
(703) 756-1580 or (571) 272-9005

Meschkow & Gresham P.L.C.
4727 North Seventh Street
Suite 409
Phoenix, AZ 85014

/arg

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 08/11/11

TO SPE OF : ART UNIT 3686

SUBJECT : Request for Certificate of Correction for Appl. No.: 11415936 Patent No.: 7912733

CofC mailroom date: 08/03/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**


Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

APPROVED

Comments: _____


SPE

3686
Art Unit



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MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

MAILED
NOV 19 2010
OFFICE OF PETITIONS

In re Application of	:	
Mark W. Triplett	:	
Patent Number: 7,769,671	:	DECISION ON
Issue Date: 08/03/2010	:	APPLICATION FOR
Application No. 11/415967	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 05/02/2006	:	and
Attorney Docket No.	:	NOTICE OF INTENT TO ISSUE
04-111-Z	:	CERTIFICATE OF CORRECTION

This is a decision on the petition filed on July 30, 2010, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred seventy-five (475) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by four hundred seventy-five (475) days is **GRANTED**.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **four hundred seventy-five (475) days**.

Patent No. 7,769,671

Application No. 11/415967

Page 2

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,769,671 B2

DATED : August 3, 2010

INVENTOR(S) : Triplett

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 355 days.

Delete the phrase "by 355 days" and insert – by 475 days--



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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

MAY 20 2011

OFFICE OF PETITIONS

In re Application of :
Kopreski, et al. : DECISION ON APPLICATION
Application No.: 11/415,968 : FOR PATENT TERM ADJUSTMENT
Filed: May 2, 2006 :
Attorney Docket No. **00-1313-Z** :

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)", filed May 4, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is either seven hundred and thirteen (713) days or four hundred and thirty-eight (438) days, not two hundred and twenty-one (221) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction, in part, on the basis that the Office will take in excess of three years to issue this patent.

Relative to the any assertion that the Office will take in excess of 3 years of the filing date to issue this patent, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including -

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on September 7, 2010.

To the extent that applicants otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is **GRANTED to the extent indicated herein.**

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is zero days (0) days. A copy of the updated PALM screen, showing the corrected determination, is enclosed.

Further review of the application history reveals that on October 6, 2008, a non-final Office action was mailed. Applicants filed a response thereto on January 5, 2009. On March 13, 2009, a notice was mailed indicating that the response of January 5, 2009, was entered, but was non-responsive². On June 15, 2009, applicants filed a response to correct the omission in the reply filed on January 5, 2009. It is also noted that on October 13, 2009, another notice was mailed indicating that the response of June 15, 2009, was entered, but was non-responsive. On December 14, 2009, applicants filed a response to correct the omission in the reply filed on June 15, 2009.

37 CFR 1.704(c)(7) provides that:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth

² It is noted that the examiner indicated that the responses filed January 5, 2009, and June 15, 2009, were entered, but were non-responsive. This decision draws no conclusion as to whether these replies were compliant for examination purposes. For the purpose of calculating patent term adjustment, these replies are considered to have had an omission that required subsequent filings and are, therefore, subject to a reduction of the patent term adjustment under 37 CFR 1.704(c)(7).

in § 1.703 to the extent that the periods are not overlapping:

(7) Submission of a reply having an omission (§1.35(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date the reply or other paper correcting the omission was filed.

It is undisputed that the responses filed January 5, 2009, and June 15, 2009, contained omissions and that the responses correcting the omissions were not filed until June 15, 2009, and December 14, 2009, respectively. Accordingly, pursuant to 37 CFR 1.704(c)(7), a period of reduction of 161 days will be entered, encompassing the period beginning on the day after the date the first reply having an omission was filed, January 6, 2009, and ending on the date the reply correcting the omission was filed, June 15, 2009. Additionally, pursuant to 37 CFR 1.704(c)(7), a period of reduction of 182 days will be entered, encompassing the period beginning on the day after the date the second reply having an omission was filed, June 16, 2009, and ending on the date the reply correcting the omission was filed, December 14, 2009. The period of reduction under 37 CFR 1.704(c)(8) of 66 days for the filing of an Information Disclosure Statement on March 12, 2009, after the filing of a reply on January 5, 2009, entirely overlaps with the period of reduction under 37 CFR 1.704(c)(7) and is being removed. Additionally, the period of reduction of 2 days is in error and is being removed.

In view thereof, the determination of the patent term adjustment at the time of the mailing of the notice of allowance is zero (0) days (383 days of Office delay - 437 days of applicant delay).

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this specific matter should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PALM screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11415968

[Search](#)

[Explanation of PTA Calculation](#)

[Explanation of PTE Calculation](#)

PTA Calculations for Application: 11415968

Application Filing Date	05/02/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	383
A Delays	383	PTO Manual Adjustment	0
B Delays	0	Applicant Delay (APPL)	162
C Delays	0	Total PTA (days)	221

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
61	02/07/2011	01/07/2011	MN/=	Mail Notice of Allowance	31		48
60	02/04/2011		IREV	Issue Revision Completed			0
59	02/04/2011		DVER	Document Verification			0
58	02/04/2011		N/=	Notice of Allowance Data Verification Completed			0
57	02/04/2011		DOCK	Case Docketed to Examiner in GAU			0
56	01/31/2011		CNTA	Allowability Notice			0
55	01/27/2011		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
54	10/01/2010		P574	Paralegal TD Accepted			0
50	09/09/2010		FWDX	Date Forwarded to Examiner			0
47	09/09/2010		ABN9	Disposal for a RCE / CPA / R129			0
53	09/07/2010		DIST	Terminal Disclaimer Filed			0
52	09/07/2010		RCAP	Reference capture on IDS			0
51	09/07/2010		M844	Information Disclosure Statement (IDS) Filed			0
49	09/07/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
48	09/07/2010	06/05/2010	RCEX	Request for Continued Examination (RCE)		94	44
46	09/07/2010		XT/G	Request for Extension of Time - Granted			0
45	09/07/2010		BRCE	Workflow - Request for RCE - Begin			0
44	03/05/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
43	03/01/2010		CTFR	Final Rejection			0
41	12/24/2009		FWDX	Date Forwarded to Examiner			0
40	12/14/2009		A...	Response after Non-Final Action			0
39	12/14/2009		XT/G	Request for Extension of Time - Granted			0
38	10/13/2009		MCTMS	Mail Miscellaneous Communication to Applicant			0
37	10/09/2009		CTMS	Miscellaneous Action with SSP			0
36	07/31/2009		FWDX	Date Forwarded to Examiner			0
35	06/15/2009	06/13/2009	A...	Response after Non-Final Action		2	32
34	06/15/2009		XT/G	Request for Extension of Time - Granted			0
32	03/13/2009		MCTMS	Mail Miscellaneous Communication to Applicant			0
31	03/13/2009		CTMS	Miscellaneous Action with SSP			0
42	03/12/2009		IDSC	Information Disclosure Statement considered			0
33	03/12/2009	01/05/2009	EIDS	Electronic Information Disclosure Statement		66	28
30	03/12/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
29	01/13/2009		FWDX	Date Forwarded to Examiner			0
28	01/05/2009		A...	Response after Non-Final Action			0
27	10/06/2008		MCTNF	Mail Non-Final Rejection			0
26	10/01/2008		CTNF	Non-Final Rejection			0
25	07/16/2008		FWDX	Date Forwarded to Examiner			0
24	07/03/2008		ELC	Response to Election / Restriction Filed			0
23	06/18/2008	07/02/2007	MCTRS	Mail Restriction Requirement	352		0.5
22	06/17/2008		CTRS	Restriction/Election Requirement			0
19	09/26/2006		DOCK	Case Docketed to Examiner in GAU			0
17	09/13/2006		TSSCOMP	IFW TSS Processing by Tech Center Complete			0
16	09/12/2006		WROIPE	Application Return from OIPE			0
15	09/12/2006		ROIPE	Application Return TO OIPE			0
14	09/12/2006		OIPE	Application Dispatched from OIPE			0
13	09/12/2006		COMP	Application Is Now Complete			0
9	08/31/2006		CRFE	CRF Is Good Technically / Entered into Database			0
18	07/31/2006		A.PE	Preliminary Amendment			0
12	07/31/2006		FLFEE	Payment of additional filing fee/Preexam			0
11	07/31/2006		SEQLIST	A set of symbols and procedures, provided to the PTO on a set of computer listings, that describe in			0
10	07/31/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic			0
8	05/30/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
5	05/10/2006		L128	Cleared by L&R (LARS)			0
4	05/10/2006		L198	Referred to Level 2 (LARS) by OIPE CSR			0

3	05/10/2006	CLSS	CASE CLASSIFIED BY OIPE	0
2	05/09/2006	SCAN	IFW Scan & PACR Auto Security Review	0
1	05/02/2006	IEXX	Initial Exam Team nn	0
0.5	05/02/2006	EFILE	Filing date	0

Export to: Excel



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MCDONNELL BOEHNEN HULBERT & BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED
SEP 01 2011
OFFICE OF PETITIONS

In re Patent No. 7,968,831
Kopreski, et al. : DECISION FOR REQUEST
Issue Date: June 28, 2011 : FOR RECONSIDERATION
Application No. 11/415,968 : OF PATENT TERM
Filed: May 2, 2006 : ADJUSTMENT
Attorney Docket No. 00-1313-Z :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(d)," filed August 29, 2011. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from three hundred and sixty-two (362) days to four hundred and thirty (430) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

On June 28, 2011, the above-identified application matured into U.S. Patent No. 7,968,831, with a revised patent term of 362 days. The instant petition was timely filed within two months of the date of issuance of the patent. Patentees assert that the Office's calculation of the applicants' delay is incorrect. Patentees maintain that the applicants' delay is 445 days.

Patentees' argument has been considered, but is not persuasive. The total applicant delay is 513 days and consists of the following delay periods:

- **161 days** of reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(7) with said period beginning January 6, 2009, and ending on June 15, 2009.¹
- **182 days** of reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(7) with said period beginning June 16, 2009, and ending on December 14, 2009.²

¹ It is noted that the PAIR sheet does not indicate the periods of 161 days and 182 days. Rather, the PAIR sheet references a period of delay of 275 days which includes the periods of delay of 161 days and 182 days – the period of 66 days that was removed and the period of 2 days that was also removed. See "Decision on Application for Patent Term Adjustment", mailed May 20, 2011, pgs.2-4.

² The period of applicant delay of 238 days found on the PAIR sheets accounts for the computer entered period of reduction of 66 days + 2 days + 94 days + 76 days. The undersigned manually entered the period of reduction of 275 days referenced above which included the 161 day period and the 182 days period (343 days) MINUS the 66 day period and the 2 day period entered by the computer. Accordingly, the period of 238 days + the period of 275 days represents the total applicant delay of 513 days.

- **94 days** of reduction to the patent term adjustment pursuant to 37 CFR 1.704(b) with said period beginning June 6, 2010, and ending September 7, 2010.
- **76 days** of reduction to the patent term adjustment pursuant to 37 CFR 1.704(c)(10) with said period beginning April 14, 2011, and ending on June 28, 2011(the patent issue date).

The patent term adjustment is 362 days consisting of 383 days of “A” delay + 492 days of “B” delay – 0 days of overlap – 513 days of applicant delay.

In view thereof, the revised patent term adjustment is 362 days . No changes to the patent term adjustment will be entered.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
 Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 ATTN: Office of Petitions

By Hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL
NEW YORK NY 10151

MAILED
FEB 02 2012
OFFICE OF PETITIONS

In re Application of :
Underwood, et al. :
Application No. 11/416,088 : DECISION ON PETITION
Filed: May 1, 2006 :
Attorney Docket No. 730305-2014.1 :

This is a decision on the petition under 37 CFR 1.47(a), filed January 25, 2012.

The petition under 37 CFR 1.47(a) is **DISMISSED** as inappropriate.

The above-identified application was filed on May 1, 2006, with a 37 CFR 1.63 declaration identifying and executed by the following inventors: John Underwood, Paul Neilson, Hanson Char, David Shing, Peter Horner, Mark Underwood, Darren Slaney, and Gary Evesson. With the instant petition, petitioner seeks to add inventor Andrew Dean, who was not previously listed in the executed declaration filed on May 1, 2006. As such, a petition under 37 CFR 1.47(a) is not appropriate. Rather, petitioner should seek to correct the inventorship pursuant to a petition under 37 CFR 1.48(a).

37 CFR 1.48(a) requires:

- (1) A request to correct the inventorship that sets forth the desired inventorship change;
- (2) A statement from each person being added as an inventor and from each person being deleted as an inventor that the error in inventorship occurred without deceptive intention on his or her part;
- (3) An oath or declaration by the actual inventor or inventors as required by § 1.63 or as permitted by §§ 1.42, 1.43 or § 1.47;
- (4) The processing fee set forth in § 1.17(i); and
- (5) If an assignment has been executed by any of the original named inventors, the written consent of the assignee.

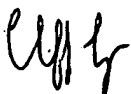
Moreover, if petitioner is only able to secure a 37 CFR 1.63 declaration executed by inventor Gary Evesson, petitioner will also need to file a petition under 37 CFR 1.183 to waive 37 CFR 1.48(a)(3)'s requirement to supply a declaration executed by all of the actual inventors. In addition, a petition under 37 CFR 1.183 should also seek waiver of 37 CFR 1.48(a)(2) if petitioner is not able to secure the statement from Andrew Dean.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries related to this decision may be directed to the undersigned at 571-272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions



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SUNSTEIN KANN MURPHY & TIMBERS LLLP
125 SUMMER STREET
BOSTON MA 02110-1618

MAILED

JUN 29 2011

OFFICE OF PETITIONS

In re Patent No. 7,858,261
Samuel B. Schaevitz et al
Application No. 11/416,219
Filed: May 2, 2006
Attorney Docket No. 3553/109

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:
:
:
:

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on March 10, 2011 and again on March 15, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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SANDRA MCLELLAN
13738 - 105 AVENUE
SURREY BC V3T 2A2 CA CANADA

MAILED

JUL 25 2011

OFFICE OF PETITIONS
ON PETITION

In re Application of
Sandra McLellan
Application No. 11/416,456
Filed: May 3, 2006
Title of Invention: **SIGN LANGUAGE
EDUCATIONAL DOLL**

This is a decision on the petition filed July 12, 2011 under 37 CFR 1.137(b)¹, to revive the above-identified application.

The petition is **GRANTED**.

A Restriction Requirement mailed November 4, 2009 set the longer of one month or thirty days as the period for reply. No response to the November 4, 2009 Restriction Requirement having been timely filed, the application became abandoned December 8, 2009. Accordingly, a Notice of Abandonment was mailed on June 14, 2010.

The petition fee in the amount of \$810.00 has applied.

All other requirements under 37 CFR 1.137(b) having been satisfied, the response to the Restriction Requirement filed July 12, 2011 will be referred to Technology Center 3715 for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).



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OFFICE OF PETITIONS

MBHB/TRADING TECHNOLOGIES
300 SOUTH WACKER DRIVE
SUITE 3200
CHICAGO IL 60606

In re Patent No. 7,908,213	:
Monroe et al.	:
Issue Date: March 15, 2011	: DECISION ON REQUEST FOR
Application No. 11/416,473	: RECONSIDERATION OF
Filed: May 2, 2006	: PATENT TERM ADJUSTMENT
Attorney Docket No. 03-748-Z1	: AND NOTICE OF INTENT
Title: SYSTEM AND METHOD FOR	: TO ISSUE CERTIFICATE OF
IMPROVING ELECTRONIC TRADING	: CORRECTION
	:
	:

This is a decision on the petition filed on April 7, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate the removal of the 104 day reduction. In addition patentees indicate an additional reduction of 59 days is warranted.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by nine hundred eighteen (918) days is **GRANTED**.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 787 (618 + 169) days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 302 days.

Patentees dispute the 104 day reduction for the submission of the Miscellaneous Letter after the Notice of Allowance on May 27, 2010. Patentees state that the submission of the "Request To Reconsideration Patent Term Adjustment" should not result in a reduction of the PTA.

Patentees' argument has been considered and determined to be persuasive. The submission of the request for reconsideration of the patent term is not considered a failure to engage in reasonable efforts to conclude processing or examination of the application. As such the 104 day reduction will be removed.

Patentees informed the Office that an additional reduction of 59 days is warranted.

A review of the record confirms patentees should have been assessed a delay of fifty-nine (59) days for the submission of a supplemental reply (IDS) on April 29, 2010. 37 CFR 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

Further, a review of the IDS, filed April 29, 2010, confirms that patentees did not include a statement under 37 CFR 1.704(d). As such, the 59 day delay is calculated beginning on March 2, 2010 the day after the submission of the RCE and amendment on March 1, 2010 and ends on April 29, 2010 the day the supplemental reply, in this instance the IDS was submitted. A 59 day reduction will be entered.

Further review of the record shows that an additional reduction of 20 days pursuant to 37 CFR 1.704(c)(8) is required for the submission of the terminal disclaimer on January 5, 2010. As such, the 20 day delay is calculated beginning on December 17,

Patent No. 7,908,213 Application No. 11/416,473 Page 3
2009 the day after the submission of the amendment on December
16, 2009 and ends on January 5, 2010 the day the supplemental
reply, in this instance the terminal disclaimer was submitted. A
20 day reduction will be entered.

Thus the total reduction for patentees' delay totals 171 (76 +
20 + 59 + 16) days.

The Office will *sua sponte* issue a certificate of correction.
Pursuant to 37 CFR 1.322, the Office will not issue a
certificate of correction without first providing assignee or
patentee an opportunity to be heard. Accordingly, patentees are
given **one (1) month or thirty (30) days**, whichever is longer,
from the mail date of this decision to respond. No extensions
of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the
requirement of 35 U.S.C. 154(b)(4) that any civil action by an
applicant dissatisfied with a determination made by the Director
under 35 U.S.C. 154(b)(3) be filed in the United States District
Court for the District of Columbia within 180 days after the
grant of the patent.

The application is being forwarded to the Certificate of
Correction Branch for issuance of a certificate of correction.
The Office will issue a certificate of correction indicating
that the term of the above-identified patent is extended or
adjusted by **nine hundred eighteen (918) days**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been
assessed from deposit account 13-2490. The fee set forth in 37
CFR 1.18(e) is required. No additional fees are required.

Telephone inquiries specific to this matter should be directed
to the undersigned at (571) 272-3215.



Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,908,213 B2

DATED : March 15, 2011

DRAFT

INVENTOR(S) : Monroe et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 893 days

Delete the phrase "by 893 days" and insert – by 918 days--



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1940 DUKE STREET
ALEXANDRIA, VA 22314

MAILED

FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Ralf Bohnke et al :
Application No. 11/416,477 : **ON PETITION**
Filed: May 3, 2006 :
Attorney Docket No. 290754US8X'RE :

This is a decision on the petition, filed February 14, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 13, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2476 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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Decision Date : June 10,2011

In re Application of :

Ralf Bohnke

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11416477

Filed : 03-May-2006

Attorney Docket No : 290754US8X RE

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 10,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2476 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11416477	
Filing Date	03-May-2006	
First Named Inventor	Ralf Bohnke	
Art Unit	2476	
Examiner Name	PHIRIN SAM	
Attorney Docket Number	290754US8X RE	
Title	TRANSMISSION SYSTEM FOR OFDM-SIGNALS WITH OPTIMIZED SYNCHRONIZATION	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Andrew T. Harry/
Name	Andrew T. Harry
Registration Number	56959



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT EDWARD THRONEBERRY
10107 HWY 167 SO.
SHERIDAN AR 72150

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Application of
PATTERSON, et al
Application No. 11/416,602
Filed: May 4, 2006
Attorney Docket No.

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed, October 17, 2007, which set a reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 18, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (3).

With respect to item (1): The Notice of Non-Compliant Amendment (Notice) mailed October 17, 2007, and March 18, 2008, required submission of an amendment in compliance with 37 CFR 1.121. Please note the website at the bottom of the Notice mailed March 18, 2008, for guidance as to the proper format for filing an amendment.

Since the proper submission has not been received by the Office, the petition cannot be accepted as being in compliance with the provisions of 37 CFR 1.137(b).

With respect to item (3): The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Ricky Wayne Patterson) was ever given a power of attorney to act on behalf of inventor Robert Edward Throneberry, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

In the event a correction of inventorship is required, please see 37 CFR 1.48.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

ROBERT EDWARD THRONEBERRY
10107 HWY 167 SO.
SHERIDAN AR 72150

MAILED
MAY 16 2011
OFFICE OF PETITIONS

In re Application of
PATTERSON, et al
Application No. 11/416,602
Filed: May 4, 2006
Attorney Docket No.

:
:
: **CORRECTED**
: **DECISION ON PETITION**
:
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

The application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed, October 17, 2007, which set a reply of one (1) month. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 18, 2007.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1) and (3).

With respect to item (1): The Notice of Non-Compliant Amendment (Notice) mailed October 17, 2007, and March 18, 2008, required submission of an amendment in compliance with 37 CFR 1.121. Please note the website at the bottom of the Notice mailed March 18, 2008, for guidance as to the proper format for filing an amendment.

Since the proper submission has not been received by the Office, the petition cannot be accepted as being in compliance with the provisions of 37 CFR 1.137(b).

With respect to item (3): The statement of delay is not acceptable. In this regard, petitioner's attention is directed to 37 CFR 1.33(b), which states.

(b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:

- (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
- (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
- (3) An assignee as provided for under § 3.71(b) of this chapter; or
- (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the one signing has not been given a power of attorney by the other applicant.

Therefore, as the petition is not signed by all the inventors and the record herein fails to disclose that petitioner herein (Ricky Wayne Patterson) was ever given a power of attorney to act on behalf of inventor Robert Edward Throneberry, or that he is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

In the event a correction of inventorship is required, please see 37 CFR 1.48.

The Power of Attorney filed April 25, 2011, cannot be accepted because it is signed by fewer than all applicants. Please see 37 CFR 1.33 and 1.36(a). The correspondence address of record will continue to be as indicated above until otherwise properly notified.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATTERSON THUENTE CHRISTENSEN
PEDERSEN PA
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

MAILED

NOV 28 2011

OFFICE OF PETITIONS

In re Patent No. 8,048,032	:	DECISION ON
Root, et al.	:	PATENT TERM ADJUSTMENT
Issue Date: November 1, 2011	:	AND NOTICE OF INTENT
Application No. 11/416,629	:	TO ISSUE
Filed: May 3, 2006	:	CERTIFICATE OF
Attorney Docket No. 2005.86US01	:	CORRECTION

This is a decision on the "PETITION UNDER 37 C.F.R. 1.705(d)", filed November 10, 2011. Patentees request that the patent term adjustment indicated on the patent be corrected from four hundred thirty-seven (437) days to four hundred forty-four (444) days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of **four hundred forty-four (444)** days.

On November 1, 2011, the above-identified application matured into U.S. Patent No. 8,048,032. Patentees timely filed the instant application for patent term adjustment under 37 CFR 1.705(d) on November 10, 2011. Patentees assert that they should not have been assessed applicant delay of seventy-six (76) days for the submission of an IDS on August 18, 2011 and replacement drawings on September 22, 2011, after the Notice of Allowance was mailed on August 3, 2011 and a supplemental Notice of

Allowability was mailed on September 14, 2011. Rather, Patentees assert that they should have only been assessed applicant delay of twenty-eight (28) and forty-one (41) days for these two submissions under 37 CFR 1.704(c)(10).

37 CFR 1.704(c)(10) states that applicant delay shall be assessed "beginning on the date the...paper was filed and ending on the mailing date of the Office action or notice in response to the...paper". Here, Applicant filed an IDS on August 18, 2011, and the Office mailed a response (a Notice of Allowability) on September 14, 2011. Accordingly, Applicants should have been accorded 28 days of delay for this filing. In addition, Applicants filed replacement drawings on September 22, 2011. The Office did not mail a response until the patent issued on November 1, 2011. As such, 41 days of Applicant delay should have been assessed for this submission. The total assessment of 76 days for these two filings is incorrect. Rather, the total delay should have been 69 (28+41) days.

In view thereof, the correct determination of PTA at the time of issuance is four hundred forty-four (444) days (416 days of "A" delay and 129 days of "B" delay, reduced by 101 (32+28+41) days of applicant delay.

Receipt of the \$200.00 fee set forth in 37 CFR §1.18(e) is acknowledged.

The application is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify the error regarding the patent term information. See 35 U.S.C. § 254 and 37 C.F.R. § 1.322. The certificate of correction will indicate that the term of the above-identified patent is extended or adjusted by **four hundred forty-four (444)** days subject to any disclaimers.

Telephone inquiries specific to this matter should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

Enc: draft certificate of correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 8,048,032 B2

DATED : November 1, 2011

INVENTOR(S) : Root et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 437 days.

Delete the phrase "by 437 days" and insert – by 444 days--



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SEP 24 2010

OFFICE OF PETITIONS

HRL LABORATORIES, LLC
3011 MALIBU CANYON RD.
MALIBU CA 90265

In re Application of
WANDZURA, STEPHEN
Application No. 11/416,642
Filed: 05/03/2006
Attorney Docket No. 031242

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed April 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to pay the issue and publication fees as required by the Notice of Allowance and Fee(s) Due mailed on December 7, 2009, which set a three (3) month statutory period for reply. Accordingly, the application became abandoned on March 8, 2010. A Notice of Abandonment was mailed on March 25, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee and publication fee, (2) the petition fee, and (3) a proper statement of unintentional delay.

The Office mistakenly charged a duplicate petition fee of \$1,620.00 to the Deposit Account. Accordingly, the duplicate fee will be refunded in due course.

This matter is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specifically concerning this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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WEISS & WEISS
SUITE 251
300 OLD COUNTRY ROAD
MINEOLA, NY 11501

MAILED

MAY 11 2011

OFFICE OF PETITIONS

In re Application of
Michael Cooper
Application No. 11/416,644
Filed: May 2, 2006
Attorney Docket No.: P/163-3 CIP

ON PETITION

This is a decision on the petition, filed April 4, 2011, entitled Petition Under 37 C.F.R. 1.10(c), which is being treated as a petition requesting that the abandonment be withdrawn in the above-identified application under the provisions of 37 CFR 1.181 (no fee).

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the non-final Office action of September 20, 2010, which set a three (3) month shortened statutory period for reply. It is noted that a reply was due on or before December 20, 2010; however, the maximum statutory period for response ended on March 21, 2011, since March 20, 2011 was a Sunday. A Notice of Abandonment was subsequently mailed on March 31, 2011. On April 4, 2011, the present petition was filed.

Petitioner asserts that a timely response was filed on March 21, 2011, with an appropriate extension of time pursuant to 37 CFR 1.10. In support, petitioner provides a copy of (1) the post card receipt, acknowledging receipt in the United States Patent and Trademark Office (USPTO) on March 21, 2011 of , *inter alia*, a response and a petition for extension of time; (2) an express mailing label, showing receipt in the United States Postal Service (USPS) on March 21, 2011, and the Track and Confirm record from the USPS, showing that the package in question was accepted on March 21, 2011.

A review of the written record confirms that an Amendment, including a 3-month extension of time, was filed on March 21, 2011, as the papers are present in the file. Since the response was timely received in the USPTO on March 21, 2011, no abandonment existed.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status. The Notice of Abandonment mailed March 31, 2011 is hereby vacated.

This application is being referred to Technology Center AU 1778 for appropriate action by the Examiner in the normal course of business on the reply received March 21, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Paper No.

MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Application of	:	
Aloni et al.	:	
Application No. 11/416,677	:	ON APPLICATION FOR
Filed: May 3, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 17093US03	:	

This is in response to the Request for Reconsideration of the Patent Term Adjustment under 37 C.F.R. § 1.705 filed July 29, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is four hundred eighty-four (484) days, not four hundred fifty-four (454) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

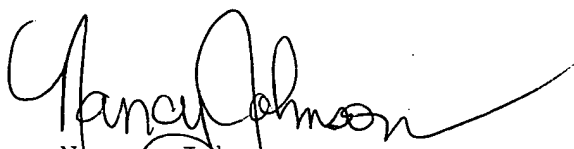
Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", with a long, sweeping horizontal stroke extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Connolly Bove Lodge & Hutz LLP
1007 North Orange Street
P.O. Box 2207
Wilmington DE 19899

In re Application of

Mengistu

Application No. 11/416,696

Filed: May 3, 2006

Attorney Docket No. **13655-00001-US1**

This is a decision on the petition under 37 CFR 1.137(b), filed December 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-cited application became abandoned for failure to reply in a timely manner to the non-final Office action mailed August 4, 2010, which set a shortened statutory period for reply of three (3) months from its mailing date. No extension of time pursuant to 37 CFR 1.136(a) was obtained within the allowable period. Accordingly, the application became abandoned on November 5, 2010. A Notice of Abandonment was mailed March 1, 2011.

The amendment filed December 21, 2011, is noted.

The application is being forwarded to Technology Center 3700, GAU 3751 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

MAILED
JAN 17 2012
OFFICE OF PETITIONS

: DECISION ON PETITION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 8/13/10

TO SPE OF : ART UNIT 2814 (2800)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/416,709 Patent No.: 7,723,811

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

Ernest C. White, LRE

Randolph Sq. Ste 9D62A

703-756-1590

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

- ☐ Approved All changes apply.
☐ Approved in Part Specify below which changes do not apply.
☒ Denied State the reasons for denial below.

The proposed change to claim 1 broadens or changes the scope of the allowed claimed invention.

SPE

ART UNIT

2814.



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
WWW.USPTO.GOV

Paper No.

MITSUBISHI ELECTRIC RESEARCH LABORATORIES, INC.
201 BROADWAY
8TH FLOOR
CAMBRIDGE MA 02139

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of	:	
Esenther et al.	:	
Application No. 11/416,719	:	DECISION ON PETITION
Filed: May 3, 2006	:	PURSUANT TO
Attorney Docket No. MERL-1783	:	37 C.F.R. § 1.137(B)
Title: METHOD AND SYSTEM FOR	:	
EMULATING A MOUSE ON A MULTI-	:	
TOUCH SENSITIVE SURFACE	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 18, 2011, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 C.F.R. § 1.113 in a timely manner to the final Office action mailed April 26, 2010, which set a shortened statutory period for reply of three months. An after-final amendment was received on July 23, 2010, and an advisory action was mailed on August 3, 2010. No extensions of time under the provisions of 37 C.F.R. § 1.136(a) were obtained, and no further responses were received. Accordingly, the above-identified application became abandoned on July 27, 2010. A notice of abandonment was mailed on January 11, 2011.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply

Decision on Petition pursuant to 37 C.F.R. § 1.137(b)

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;

- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted the petition fee, both a notice of appeal and the associated fee, a Pre-Appeal Brief Request for a Panel Review, and the proper statement of unintentional delay.

The first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.¹

The Technology Center will be notified of this decision. The Technology Center will then notify the Technology Center Art Unit supervisor of the examiner of record of this decision, so that a panel of examiners experienced in the field of technology can be designated, to review the applicant's remarks and the examiner's rejections.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Petitioner has also submitted a three-month extension of time. An extension of time under 37 C.F.R. § 1.136 must be filed prior to the expiration of the maximum extendable period for reply.² Accordingly, since the \$ 1110 extension of time submitted with the petition on February 18, 2011 was filed subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to Deposit Account No. 50-0749 in due course.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225.³ All other inquiries

¹ See Rule 1.137(d).

² See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988).

³ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the

Decision on Petition pursuant to 37 C.F.R. § 1.137(b)

concerning examination procedures or status of the application should be directed to the Technology Center.

/Paul Shanoski/

Paul Shanoski

Senior Attorney

Office of Petitions

written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



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GENERAL ELECTRIC COMPANY
GE GLOBAL PATENT OPERATION
2 CORPORATE DRIVE, SUITE 648
SHELTON CT 06484

MAILED

AUG 17 2010

OFFICE OF PETITIONS

In re Application of
Michael J. HOROWITZ et al.
Application No. 11/416,787
Filed: May 03, 2006
Attorney Docket No. 232307

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 19, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of October 15, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is January 16, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the final Office action of October 15, 2009 is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Technology Center AU 2862 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.



Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **ANDREW KEFALONITIS JR.
ARMSTRONG TEASDALE LLP
ONE METROPOLITAN SQUARE
SUITE 2600
ST. LOUIS, MISSOURI 63102-2740**



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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
SEP 27 2010
OFFICE OF PETITIONS

In re Application of :
ALONI et al. : DECISION ON APPLICATION
Application No. 11/416,817 : FOR
Filed: 05/03/2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 17092US03 :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)", filed August 5, 2010, which is properly treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 1101 days, not 516 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants contend that the period of reduction of 2 days for applicant delay pursuant to 37 CFR 1.704(b) for the filing of the reply on August 17, 2009, should be removed.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee

is entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for

To the extent that applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is DISMISSED.

Applicants request the removal of the period of reduction under 37 CFR 1.704(b) of 2 days on the ground that the response to the Office action mailed May 15, 2009, was filed timely on Monday, August 17, 2009. Applicants assert that the three (3) month shortened statutory period for response to the Office action of May 15, 2009, fell on Saturday, August 15, 2009, and therefore, they had until the next succeeding business day, August 17, 2009, to file a timely response.

Applicants' argument is without merit. Applicants were properly assessed a delay of 2 days for filing a response on August 17, 2009, to the Office action of May 15, 2009. Calculation of applicants' delay is based on the date of receipt of the response in the Office. 35 U.S.C. 154(b)(2)(C)(ii) does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. 21(b) does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii). Accordingly, the period of reduction of 2 days will remain.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Applicants are reminded that any delays by the Office pursuant to 37 CFR 1.702(a)(4) and 1.702(b) and any applicant delays under 37 CFR 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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CHICAGO IL 60661

MAILED
APR 12 2011
OFFICE OF PETITIONS

In re Application of	:	
Aloni et al.	:	
Patent Number: 7,826,470	:	DECISION ON APPLICATION
Issue Date: 11/02/2010	:	FOR RECONSIDERATION OF
Application No. 11/416817	:	PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 05/03/2006	:	
Attorney Docket Number: 17092US03	:	

This is a decision on the petition filed on December 29, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty three (1023) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty three (1023) days is **DISMISSED**.

Background

The Office assessed a reduction of 44 days to Patentees pursuant to 37 CFR 1.704(c)(10), in connection with the filing of Amendment under 37 CFR 1.312, filed August 16, 2010. The reduction commenced on August 16, 2010, the date that Amendment was filed, and ended September 28, 2010, the mailing date of the Office action in response to the Amendment.

The present petition

Patentees argue that the reduction pursuant to 37 CFR 1.704(c)(10), is inconsistent with the way the Office calculates all other patent term adjustments, and most reductions, save those calculated under 35 U.S.C. § 154(b)(1)(C) due interferences, secrecy orders and appeals. Patentee concludes that the Office policy for calculating the effect of filing a post-allowance paper on accrual of the three-year guarantee is in error and provides a PTA one day shorter than it should be, and Patentee requests an additional day of Patent Term Adjustment.

Opinion

Initially it is noted that the patent issued with a PTA of 1020 days, and Patentees request for an additional day of PTA would result in a PTA of 1021 days (not 1023 days).

Patentees arguments have been carefully considered. Patentees' attention is directed to 35 U.S.C. § 154(b)(2)(C), REDUCTION OF PERIOD OF ADJUSTMENT, and section (iii), which states: "The Director shall prescribe regulations establishing the circumstances that constitute a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application." Pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), the Director prescribed, inter alia, 37 CFR 1.704(c)(10), which states that the submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, shall reduce the period of adjustment set forth in § 1.703 by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper; or

(ii) Four months;

In this instance, and pursuant to 35 U.S.C. § 154(b)(2)(C)(iii), and 37 CFR 1.704(c)(10), the patent term was properly reduced 44 days, beginning on August 16, 2010, the date that Amendment was filed, and ending on September 28, 2010, the mailing date of the Office action in response to the Amendment.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.



Anthony Knight
Director
Office of Petitions



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SEP 24 2010

OFFICE OF PETITIONS

**TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER, EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834**

In re Application of	:	
Guy TIPHANE, et al	:	
Application No. 11/416,828	:	DECISION ON PETITION
Filed: May 2, 2006	:	
Attorney Docket No. 09623C-03202US	:	

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before June 25, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed March 25, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on June 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and publication fee of \$300; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

As authorized, the issue and publication fees will be charged to petitioner's Deposit Account No. 20-1430, since the fee is required under the provisions of 37 CFR 1.137(b).

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2629 for processing of the RCE and Information Disclosure Statement..

/DCG/

Diane C. Goodwyn

Petitions Examiner

Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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October 21, 2011

WilmerHale/Cold Spring Harbor Laboratory
399 Park Avenue
New York NY 10022

In re Application of	:	
Gregory J. Hannon et al.	:	DECISION ON PETITION
Application No. 11416854	:	
Filed: 05/02/2006	:	ACCEPTANCE OF COLOR
Attorney Docket No. 0287000.00140US2	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 2, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch



UNITED STATES PATENT AND TRADEMARK OFFICE

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MEDTRONIC

**Attn: Noreen Johnson - IP Legal Department
2600 Sofamor Danek Drive
MEMPHIS TN 38132**

MAILED

JAN 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Kevin T. Foley et al.	:	
Application No. 11/416,892	:	DECISION ON PETITION
Filed: May 3, 2006	:	
Attorney Docket No. 061753	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 8, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1,620 and (3) a proper statement of unintentional delay. Accordingly, the amendment is accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3775 for appropriate action by the Examiner in the normal course of business on the reply received December 23, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



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WENDY W. KOBBA, ESQ.
PO BOX 556
SPRINGTOWN, PA 18081

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Jeffrey w. Nicholson, et al.
Application No. 11/417,093
Filed: May 3, 2006
Attorney Docket No. NICHOLSON 9-24

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2010, to revive the above-identified application.

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts. However, if petitioner desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. All future correspondence regarding this application file will be directed solely to the address of record until otherwise instructed.

It is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must so notify the Office.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 14, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 14, 2010. Accordingly, the date of abandonment of this application is July 15, 2010.


The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.


April M. Wise
Petitions Examiner
Office of Petitions

cc: ANN M. LAFEIR
OFS FITEL, LLC
25 SCHOOLHOUSE ROAD
SUITE 105
SOMERSET, NJ 08873

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101007

DATE : October 8, 2010

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction on Patent No.: 7,382,576

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

Changes are merely clerical. /CAR/

SPE: /Wayne Young/

Art Unit 2627



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**GOODWIN PROCTER LLP
ATTN: PATENT ADMINISTRATOR
135 COMMONWEALTH DRIVE
MENLO PARK CA 94025-1105**

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:
Dominique M. FREEMAN, et al	:
Application No. 11/417,312	:
Filed: May 1, 2006	:
Attorney Docket No. 38187-2842.US	:
	:
	:
	:
	:

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.182, filed December 6, 2010, to change the order of the names of the inventors.

The petition is **GRANTED**.

Office records have been corrected to reflect the change in the order of the named inventors. A corrected Filing Receipt, which sets forth the desired order of the named inventors, accompanies this decision on petition.

The \$400 fee for the petition under 37 CFR 1.182 has been paid.

This application is being referred to Technology Center AU 3736 for further processing in the normal course of business.

Telephone inquiries regarding this decision should be directed to Diane C. Goodwyn at (571) 272- 6735.

Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/417,312	05/01/2006	3736	1915	38187-2842.US	74	2

CONFIRMATION NO. 6418

CORRECTED FILING RECEIPT



OC000000045252829

77845

Goodwin Procter LLP
Attn: Patent Administrator
135 Commonwealth Drive
Menlo Park, CA 94025-1105

Date Mailed: 01/04/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Dominique M. Freeman, La Honda, CA;
Don Alden, Sunnyvale, CA;
Dirk Boecker, Palo Alto, CA;

Power of Attorney: The patent practitioners associated with Customer Number 77845

Domestic Priority data as claimed by applicant

This application is a CON of 10/335,212 12/31/2002 PAT 7,547,287
which is a CIP of 10/127,395 04/19/2002 PAT 7,025,774
and is a CIP of 10/237,261 09/05/2002 PAT 7,344,507

Foreign Applications

If Required, Foreign Filing License Granted: 06/01/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/417,312**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Method and apparatus for penetrating tissue

Preliminary Class

600

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER**Title 35, United States Code, Section 184****Title 37, Code of Federal Regulations, 5.11 & 5.15****GRANTED**

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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**FINNEGAN, HENDERSON, FARABOW, GARRETT & DUNNER
LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413**

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Application of :
Karl L. Ginter et al. :
Application No. 11/417,323 : **DECISION ON PETITION**
Filed: May 2, 2006 :
Attorney Docket No. 07451.0005-08000 :

This is a decision on the petition under 37 CFR 1.59(b), filed September 22, 2010, to expunge information from the above identified application.

The petition is **dismissed**.

Petitioner requests that the filing of an RCE and Information Disclosure Statement filed September 22, 2010, be expunged from the record.

The petition is deficient because there is no statement that:

- (B) the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
- (C) the information has not otherwise been made public;
- (D) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted.

Petitioner is directed to MPEP 724.05(II).

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

**Peter F. Corless
Rohm and Haas Electronic Material LLC
455 Forest Street
Marlborough MA 01752**

**MAILED
SEP 15 2011
OFFICE OF PETITIONS**

In re Application of :
Gregory P. PROKOPOWICZ et. al : ON PETITION
Application No. 11/417,374 :
Filed: May 4, 2006 :
Atty. Docket No.: 52422(70329)

This is in response to the petition under 37 CFR 1.137(b), filed May 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply to the final Office action mailed February 22, 2010, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. The application became abandoned May 23, 2010. A Notice of Abandonment was mailed October 18, 2010.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form a Request for Continued Examination (RCE), RCE fee, and submission under 37 CFR 1.114, (2) a petition fee of \$1620, and (3) a statement of unintentional delay. The reply to the final Office action is accepted as having been unintentionally delayed.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

This application is being referred to Technology Center Art Unit 1722 for processing of the filed reply.

for Ramesh Krishnamurthy
Anthony Knight
Director
Office of Petitions

cc: Edwards Angell Palmer & Dodge LLP
P.O. Box 55874
Boston, Mass. 02205

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12-01-11TO SPE OF : ART UNIT 2173SUBJECT : Request for Certificate of Correction for Appl. No.: 11417474 Patent No.: 7802198
7502198CofC mailroom date: 11-07-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square - 9D10-A
Palm Location 7580

Note: _____


Angela Green 571.272.9005

CofC Branch 703-756-1814

Thank You For Your Assistance**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**Specify below which changes **do not** apply.☐ **Denied**

State the reasons for denial below.

Comments: _____

no comments

SPE /Chat C. Do/

Art Unit 2171



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SUITE 3200
CHICAGO IL 60606

MAILED
AUG 24 2010
OFFICE OF PETITIONS

In re Application of	:	
Kemp et al.	:	DECISION ON PETITION
Application No. 11/417,513	:	
Filed: 05/03/2006	:	
Attorney Docket No. 02-436-Z	:	

This is a decision on the petition under 37 CFR 1.137(b), filed March 10, 2010, to revive the above-identified application.

The petition under 37 CFR 1.137(b) is **granted**.

The above-identified application became abandoned for failure to file a timely response to the Notice to File Missing Parts of Nonprovisional Application mailed June 5, 2006, which set a two-month extendable period to reply. No extensions of this time period were obtained. Accordingly, the above-identified application became abandoned on August 6, 2006. A Notice of Abandonment was mailed on February 7, 2007.

Petitioner has met the requirements to revive the above-identified application pursuant to 37 CFR 1.137(b). Petitioner submitted the required reply, paid the petition fee, and made the proper statement of unintentional delay.

This matter is being referred to the Office of Patent Application Processing.

Telephone inquiries specific to this decision may be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6-21-10

Paper No.: _____

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 11417,522 Patent No.: 7412416

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Should cote be approved

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Ennis Young LRE
Randolph Sq. Ste 9D62A
703-756-1542

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

SPE

/James Kramer/ 3693

ART UNIT



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SUITE 3200
CHICAGO IL 60606

MAILED

DEC 21 2010

OFFICE OF PETITIONS

In re Application of :
Brumfield et al. :
Application No. 11/417,523 : ON APPLICATION FOR
Filed: May 3, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 02-211-Z4 :
Title: SYSTEM AND METHOD FOR :
GROUP POSITIONING OF MARKET :
INFORMATION IN A GRAPHICAL USER :
INTERFACE :

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT" filed on November 5, 2010, which is being treated as a petition under 37 CFR 1.705(b) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred eighty-five (585) days.

The request is **DISMISSED**.

Submission of the patent term adjustment application fee is a prerequisite prior to treatment on the merits of any application submitted pursuant to 37 CFR 1.705. The instant application was filed without the required \$200.00. Further, the application for patent term adjustment did not authorize the Office to charge the required fee to applicants' deposit account. Thus, the Office was without authority to charge the required fee.

Accordingly, the application for patent term adjustment is subject to dismissal for lack of fee.

As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272- 3215.



Charlema Grant
Petition Attorney
Office of Petitions

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



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JUN 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,890,414 :
Brumfield et al. : DECISION ON REQUEST FOR
Issue Date: February 15, 2011 : RECONSIDERATION OF
Application No. 11/417,523 : PATENT TERM ADJUSTMENT
Filed: May 3, 2006 :
Attorney Docket No. 02-211-Z4 :
Title: SYSTEM AND METHOD FOR :
GROUP POSITIONING OF MARKET :
INFORMATION IN A GRAPHICAL USER :
INTERFACE :

This is a decision on the petition filed on February 1, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by seven hundred thirteen (713) days.

The petition to correct the patent term adjustment to indicate seven hundred thirteen (713) days is **DISMISSED**.

The request for reconsideration of patent term adjustment is **DISMISSED AS UNTIMELY FILED**.

Patentee is given **TWO (2) MONTHS** to respond to this decision. No extensions of time will be granted under § 1.136(a).

Patentees submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of patent term adjustment is 713 days. Patentees contend that instead of a 45 day reduction for the delay in submitting a response to the August 24, 2009 supplemental final Office action, a 92 day reduction calculated using the mailing date of July 8, 2009, the date the final rejection was mailed is warranted. Patentees maintain the supplemental final Office action was mailed in error.

35 U.S.C. 154(b) provides for patent term adjustment for examination delay. Pursuant to 35 U.S.C. 154(b)(3)(B) and implementing regulation 37 C.F.R. § 1.705, an applicant shall receive an initial determination of patent term adjustment with the mailing of the Notice of Allowance and shall be given one opportunity to request reconsideration of that determination by way of filing of an application for patent term adjustment prior to the payment of the issue fee.

The issue fee payment was received in the Office on November 5, 2010. The period for filing an application for patent term adjustment requesting reconsideration of the initial determination of patent term adjustment at the time of mailing of the notice of allowance ended November 5, 2010. Accordingly, it is appropriate to dismiss this petition as untimely filed under 1.705(b).

Consideration under 1.705(d) is not appropriate. As stated in MPEP 2730, 1.703(d) provides that:

If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

It is acknowledged that patentee filed, on November 5, 2010, a "Request for Reconsideration of Patent Term Adjustment", disclosing that the applicant delay may be understated, which could result in the recalculated Total PTA at Issuance being longer than appropriate. This request did not include the required fee pursuant to 37 CFR 1.705, thus the request was dismissed without further review. See *Treatment of Letters Stating that the USPTO's Patent Term Adjustment Determination is Greater than what the Applicant or Patentee Believes is Appropriate*, 75 FR 42079 (July 20, 2010).

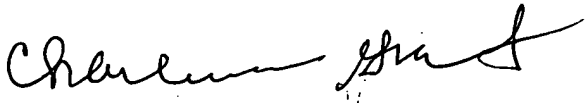
Consideration of the request for correction of the initial determination of patent term adjustment under 37 CFR 1.705(d) is appropriately dismissed as untimely filed.

Considering the disclosure of record, patentee is not required to, but also is not precluded from filing a terminal disclaimer disclaiming any period considered in excess of the appropriate patent term adjustment

Submission of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in cursive script, appearing to read 'Charlema Grant', is written over a horizontal line.

Charlema Grant
Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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OFFICE OF PETITIONS

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SUITE 3200
CHICAGO IL 60606

In re Patent No. 7,774,249
Issued: August 10, 2010
Application No. 11/417,532
Filed: May 3, 2006
Dkt. No.: 03-912-Z

: DECISION ON APPLICATION FOR
: PATENT TERM ADJUSTMENT and
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION
:

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT," filed July 26, 2010, which is being properly treated pursuant to 37 CFR 1.705(d). Patentee asserts the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by zero days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by zero days is **GRANTED**.

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by zero days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,774,249

DATED : August 10, 2010

DRAFT

INVENTOR(S) : West, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 45 days

Delete the phrase "by 45 days" and insert -- by 0 days--

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : _____ 09-14-2010

TO SPE OF : ART UNIT 3691

SUBJECT : Request for Certificate of Correction for Appl. No: 11/417546 Patent No 7752122
Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (Co f C)
Randolph Square – 9D10-A
Palm Location 7580**

Should drawings be entered?

EvaJames

Certificates of Correction Branch

703-756-1583 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

/Alexander Kalinowski/

3691

SPE

Art Unit



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NOV 12 2010

OFFICE OF PETITIONS

**ALFRED E. MANN FOUNDATION FOR
SCIENTIFIC RESEARCH
PO BOX 905
SANTA CLARITA CA 91380**

In re Application of
Joseph H. Schulman et al.
Application No. 11/417,597
Filed: May 4, 2006
Attorney Docket No. A424-USA

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the final Office action mailed, March 2, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 3, 2010. A Notice of Abandonment was mailed on September 14, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of \$405, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

As authorized the Request for Continued Examination fee in the amount of \$405 will be charged to petitioner's deposit account.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. *See In re Application of S.*, 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,175 extension of time fee submitted with the petition on October 19, 2010 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3766 for appropriate action by the Examiner in the normal course of business on the RCE received October 18, 2010.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/27/11

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: 11417623 Patent No.: 7566375

CofC mailroom date: 01/13/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9996

**Certificates of Correction Branch
703-756-1814 _____**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☒ **Denied**

State the reasons for denial below.

Comments: The locations where the changes are to be made are not adequately identified. For example, there are three instances of "Lamkin et al" on page 2 of the patent. An accurate description of the locations where the changes are to be made is required – for example: page 2, second column, line 37.


**K. Wyrozebski
SPE, AU 1746**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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Date Mailed : 03/10/11

Patent No. : 7566375 B2
Patent Issued : 10/19/10
Docket No. : WINN.208A3

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 01/13/11; please see attachments.

"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby denied.

A handwritten signature in cursive script that reads "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

**KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE CA 92614**

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 01/27/11

TO SPE OF : ART UNIT 1746

SUBJECT : Request for Certificate of Correction for Appl. No.: 11417623 Patent No.: 7566375

CofC mailroom date: 01/13/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

You can fax the Directors/SPE response to 571-270-9990

**Certificates of Correction Branch
703-756-1814 _____**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☒ **Denied**

State the reasons for denial below.

Comments: The locations where the changes are to be made are not adequately identified. For example, there are three instances of "Lamkin et al" on page 2 of the patent. An accurate description of the locations where the changes are to be made is required – for example: page 2, second column, line 37.


**K. Wyrozebski
SPE, AU 1746**



UNITED STATES PATENT AND TRADEMARK OFFICE

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED
OCT 04 2011
OFFICE OF PETITIONS

In re Patent No. 7,991,090	: DECISION ON APPLICATION FOR
Issued: August 2, 2011	: PATENT TERM ADJUSTMENT
Application No. 11/417,688	:
Filing or 371(c) Date: May 4, 2006	:
Dkt. No.: 17285US01	:

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on September 29, 2011 requesting an increase in patent term adjustment from 1242 days to 1315 days.

The petition for reconsideration of the patent term adjustment is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,991,090 on August 2, 2011. The patent issued with a patent term adjustment of 1242 days. The instant application for patent term adjustment was timely filed September 29, 2011.

Patentee disputes the reduction of two days for applicant delay with respect to the reply filed September 27, 2010.

With respect to the applicant delay of two days, patentees' arguments have been carefully considered, but are hereby **DISMISSED AS UNTIMELY**.

Patentees are advised that any request for reconsideration under 37 CFR 1.705(d) that raises issues that were raised, or could have been raised, in an application for patent term adjustment under 37 CFR 1.705(b) shall be dismissed as untimely as to those issues. As the two day reduction contested by patentees could have been raised under 37 CFR 1.705(b), patentees' request for reconsideration of said reduction is dismissed as untimely.

Patentee also disputes the 683 days accorded pursuant to 37 CFR 1.703(b) and assert that the correct period of adjustment in this regard is 820 days. Patentees' arguments have been considered, but not found persuasive.

37 CFR 1.703(b) states in relevant part:

The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.

The period consumed by appellate review, whether successful or not, is excluded from the calculation of adjustment under 37 CFR 1.703(b). See, 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See, 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen prosecution (e.g. the filing of a request for continued examination). In this instance the period consumed by appellate review is 137 days, beginning on February 9, 2010, the date of filing of the notice of appeal and ending on June 25, 2010, the subsequent date of the non-final Office action. Thus, the period of adjustment for the Office's failure to issue the patent within three years of the application filing date is 683 days (820 days – 137 days).

In view thereof, no adjustment to the patent term will be made.

It is noted that the Office issued a Notice of proposed rulemaking entitled Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements, 76 FR 18990 (April 6, 2011). To the extent that the final rule on Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Patent No. 7,991,090

3

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 6/29/2011
TO SPE OF : ART UNIT 2873
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/417808 Patent No.: 7880954B2

CofC mailroom date: 6/20/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☒ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

The request for corrections was approved in part because the 2nd-5th corrections to delete the JP references was not applied because there were no JP references on the Title page at Item 52, in column 2, as indicated.

/Ricky Mack/

2873

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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**KLEHR, HARRISON, HERVEY,
BRANZURG & ELLERS LLP
260 SOUTH BROAD STREET
PHILADELPHIA PA 19102**

MAILED

AUG 27 2010

OFFICE OF PETITIONS

In re Application of :

Joel L. MARMAR :

Application No. 11/417,822 :

Filed: May 4, 2006 :

Attorney Docket No. 14132.0001 :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed June 18, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that Robert McKinley does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/dgc/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: ROBERT MCKINLEY
KLEHR HARRISON HARVEY BRANZBURG LLP
1835 MARKET STREET, SUITE 1400
PHILADELPHIA, PA 19103

cc: JOEL L. MARMAR, M.D.
200 LOCUST STREET, APT. 27B
PHILADELPHIA, PA 19106



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/417,871	05/03/2006	Gary Allen Kemp II	02-211-Z2	8315
39310 7590 08/06/2010 MBHB/TRADING TECHNOLOGIES 300 SOUTH WACKER DRIVE SUITE 3200 CHICAGO, IL 60606			EXAMINER SWARTZ, JAMIE H	
			ART UNIT 3684	PAPER NUMBER
			NOTIFICATION DATE 08/06/2010	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docketing@mbhb.com
williamsd@mbhb.com



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AUG - 5 2010

Jeffrey P. Armstrong
McDonnell Boehnen Hulbert & Berghoff LLP
300 South Wacker Drive
Chicago, IL 60606

In re Application of	:	
Gary Allen Kemp II et al.	:	Treatment of Request
Application No. 11/417871	:	Under 37 CFR 1.48 Petition
Filed: May 3, 2006	:	Under 37 CFR 1.324
For: TRADING TOOLS FOR	:	
ELECTRONIC TRADING	:	

This is a decision on the request under 37 CFR 1.48, filed February 16, 2010. In view of the fact that the patent has already issued, the request under 37 CFR 1.48 has been treated as a petition to correct inventorship under 37 CFR 1.324

The petition is **GRANTED**.

The patented file is being forwarded to Certificate of Corrections Branch for issuance of a certificate naming only the actual inventor or inventors.

Any questions regarding this letter should be directed to Kambiz Abdi at (571) 272-6702

/Kambiz Abdi/

Kambiz Abdi
Supervisory Patent Examiner Art Unit 3684

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO.: 7,680,724

Page 1 of

DATED: August 4, 2010

INVENTOR(S): Gary Allen Kemp II et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without any deceptive intent, improperly sets forth the inventorship.

Accordingly, it is hereby certified that the correct inventorship of this patent is:

Gary Allen Kemp, Winnetka, IL (US);
Jens-Uwe Schuetter, Evanston, IL (US);
Harris Brumfield, Chicago, IL (US);
Michael Burns, Chicago, IL (US);
Scott Singer, Lake Bluff, IL (US)

/Kambiz Abdi/
Supervisory Patent Examiner
Art Unit 3684
Technology Center 3600

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100804

DATE : August 4, 2010

TO SPE OF : ART UNIT 3684

SUBJECT : Request for Certificate of Correction on Patent No.: 7,680,724 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

All the supporting documents were submitted for the correction of inventorship of the patent application no. 11/417,871.

SPE: /Kambiz Abdi/

Art Unit 3684

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 05-27-11

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/417881 Patent No.: 7509283

CofC mailroom date: 12-01-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.


Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____



Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE /James Kramer/

Art Unit 3693



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MAILED

MAR 28 2011

OFFICE OF PETITIONS

KNOBBE MARTENS OLSON & BEAR LLP
2040 MAIN STREET
FOURTEENTH FLOOR
IRVINE, CA 92614

In re Application of :
Samuel M. Shaolian et al :
Application No. 11/417,926 : DECISION ON PETITION
Filed: May 3, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. ENDOLOG.21CP7C2 :

This is a decision on the petition filed November 24, 2010, under 37 CFR 1.78(a)(3), to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to a prior-filed nonprovisional application.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy item (1) above.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a separate physical sheet. 37 CFR 1.4(c) states that

each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Furthermore, it is unclear as to which application Application Serial No. 09/728,582 is a continuation-in-part of. Additionally, it is noted that Application Serial No. 09/251,363 fails to claim benefit of Application Serial No. 09/210,280.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matter(s) is required.

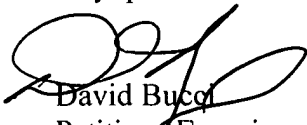
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Irvin Dingle at (571) 272-3210.


David Bucco
Petitions Examiner
Office of Petitions



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LAUSON & TARVER LLP
880 APOLLO STREET
SUITE 301
EL SEGUNDO, CA 90245

MAILED

MAY 23 2011

OFFICE OF PETITIONS

In re Application of	:
Varinder Sooch	:
Application No. 11/417,945	: DECISION ON PETITION
Filed: May 3, 2006	:
Attorney Docket No. 22267-001	:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 26, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is not a final agency action within the meaning of 5 U.S.C. § 704.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed March 17, 2008, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on June 18, 2008.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lack items (3).

There are three periods to be considered during the evaluation of a petition under 37 CFR 1.137(b):

- (1) the delay in reply that originally resulted in the abandonment;
- (2) the delay in filing an initial petition pursuant to 37 CFR 1.137(b) to revive the application; and
- (3) the delay in filing a grantable petition pursuant to 37 CFR 1.137(b) to revive the application.

Currently, the delay has not been shown to the satisfaction of the Director to be unintentional for periods (1) and (2).

As to Period (1):

The patent statute at 35 U.S.C. § 41(a)(7) authorizes the Director to revive an "unintentionally abandoned application." The legislative history of Public Law 97-247 reveals that the purpose of 35 U.S.C. § 41(a)(7) is to permit the Office to have more discretion than in 35 U.S.C. §§ 133 or 151 to revive abandoned applications in appropriate circumstances, but places a limit on this discretion, stating that "[u]nder this section a petition accompanied by either a fee of \$500 or a fee of \$50 would not be granted where the abandonment or the failure to pay the fee for issuing the patent was intentional as opposed to being unintentional or unavoidable." See H.R. Rep. No. 542, 97th Cong., 2d Sess. 6-7 (1982), reprinted in 1982 U.S.C.C.A.N. 770-71. The revival of an intentionally abandoned application is antithetical to the meaning and intent of the statute and regulation.

35 U.S.C. § 41(a)(7) authorizes the Director to accept a petition "for the revival of an unintentionally abandoned application for a patent." As amended December 1, 1997, 37 CFR 1.137(b)(3) provides that a petition under 37 CFR 1.137(b) must be accompanied by a statement that the delay was unintentional, but provides that "[t]he Commissioner may require additional information where there is a question whether the delay was unintentional." Where, as here, there is a question whether the initial delay was unintentional, the petitioner must meet the burden of establishing that the delay was unintentional within the meaning of 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b). See In re Application of G, 11 USPQ2d 1378, 1380 (Comm'r Pats. 1989); 37 CFR 1.137(b). Here, in view of the inordinate delay (2 years) in resuming prosecution, there is a question whether the entire delay was unintentional. Petitioner should note that the issue is not whether some of the delay was unintentional by any party; rather, the issue is whether the entire delay has been shown to the satisfaction of the Director to be unintentional.

The question under 37 CFR 1.137(b) for period (1) is whether the delay on the part of the party having the right or authority to reply to avoid abandonment (or not reply) was unintentional.

Accordingly, any renewed petition must clearly identify the party having the right to reply to avoid abandonment on June 18, 2008. That party, in turn must explain what effort(s) was made to further reply to the outstanding Office action and, further, why no reply was filed. If no effort was made to further reply, then that party must explain why the delay in this application does not result from a deliberate course of action (or inaction). Likewise, as Edwin Tarver was counsel of record at the time of abandonment, Edwin Tarver should explain why this application became abandoned while it was under his control and what efforts he made to further reply of itself and with whom this matter was discussed outside of Mr. Tarver. Copies of any correspondence relating to the filing, or to not filing a further reply to the outstanding Office action are required from responsible person(s), Edwin Tarver and whoever else was involved with this application at the time of abandonment. Statements are required from any and all persons responsible for handling this application, and the responsible person(s) having firsthand knowledge of the circumstances surrounding the lack of a reply to the outstanding Office action. As the courts have made clear, it is pointless for the USPTO to revive a long abandoned application without an adequate showing that the delay did not result from a deliberate course of action. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005); Lumenyte Int'l Corp. v. Cable Lite Corp., Nos. 96-1011, 96-1077, 1996 U.S. App. LEXIS 16400, 1996 WL 383927 (Fed. Cir. July 9, 1996) (unpublished) (patents held unenforceable due to a finding of inequitable conduct in submitting an inappropriate statement that the abandonment was unintentional).

As to Period (2):

Likewise, where the applicant deliberately chooses not to seek or persist in seeking the revival of an abandoned application, or where the applicant deliberately chooses to delay seeking the revival of an abandoned application, the resulting delay in seeking revival of the abandoned application cannot be considered as "unintentional" within the meaning of 37 CFR 1.137(b). See MPEP 711.03(c).

The language of both 35 U.S.C. § 41(a)(7) and 37 CFR 1.137(b) are clear and unambiguous, and, furthermore, without qualification. That is, the delay in filing the reply during prosecution, as well as in filing the petition seeking revival, must have been, without qualification, "unintentional" for the reply to now be accepted on petition. The Office requires that the entire delay be at least unintentional as a prerequisite to revival of an abandoned application to prevent abuse and injury to the public. See H.R. Rep. No. 542, 97th Cong., 2d Sess. 7 (1982), reprinted in 1982 U.S.C.C.A.N. 771 ("[i]n order to prevent abuse and injury to the public the Commissioner . . . could require applicants to act promptly after becoming aware of the abandonment"). The December 1997 change to 37 CFR 1.137 did not create any new right to overcome an intentional delay in seeking revival, or in renewing an attempt at seeking revival, of an abandoned application. See Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53160 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 87 (October 21, 1997), which clearly stated that any protracted delay (here, over 2 years) could trigger, as here, a request for additional information. As the courts have since made clear, a protracted delay in seeking revival, as here, requires a petitioner's detailed explanation seeking to excuse the delay as

opposed to USPTO acceptance of a general allegation of unintentional delay. See Lawman Armor v. Simon, 2005 U.S. Dist. LEXIS 10843, 74 USPQ2d 1633, at 1637-8 (DC EMich 2005); Field Hybrids, LLC v. Toyota Motor Corp., 2005 U.S. Dist. LEXIS 1159 (D. Minn Jan. 27, 2005) at *21-*23. Statements are required from any and all persons handling this application and the responsible person(s) having firsthand knowledge of the circumstances surrounding the protracted delay, after the abandonment date, in seeking revival.

As noted in MPEP 711.03(c)(II), subsection D, in instances in which such petition was not filed within 1 year of the date of abandonment of the application, applicants should include:

- (A) the date that the applicant first became aware of the abandonment of the application; and
- (B) a showing as to how the delay in discovering the abandoned status of the application occurred despite the exercise of due care or diligence on the part of the applicant.

In either instance, applicant's failure to carry the burden of proof to establish that the "entire" delay was "unavoidable" or "unintentional" may lead to the denial of a petition under 37 CFR 1.137(b), regardless of the circumstances that originally resulted in the abandonment of the application. See also New York University v. Autodesk, 2007 U.S. DIST LEXIS, U.S. District LEXIS 50832, *10 -*12 (S.D.N.Y. 2007)(protracted delay in seeking revival undercuts assertion of unintentional delay).

There is no indication that the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. If the person signing the instant petition desires to receive future correspondence regarding this application, the appropriate power of attorney or authorization of agent must be submitted. While a courtesy copy of this decision is being mailed to the person signing the instant petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

Any renewed petition may be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is (571) 273-8300.

Correspondence regarding this decision may also be filed through the electronic filing system of the USPTO.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

A handwritten signature in cursive script, appearing to read "Irvin Dingle".

Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John Alumit
Patel & Alumit, P.C.
16830 Ventura Boulevard, Suite 360
Encino, CA 91364



UNITED STATES PATENT AND TRADEMARK OFFICE

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JOHN ALUMIT
16830 VENTURA BLVD. SUITE 360
ENCINO CA 91364

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AUG 01 2011

OFFICE OF PETITIONS

ON PETITION

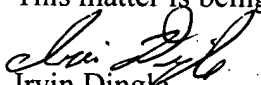
In re Application of
Varinder Sooch
Application No. 11/417,945
Filed: May 3, 2006
Attorney Docket No. 22267-001

This is a decision on the petition filed July 18, 2011, which is being treated as a renewed petition under 37 CFR 1.137(b), to revive the above-identified application.

The petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 3714 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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Alexandria, VA 22313-1450
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Morgan, Lewis & Bockius LLP / NavCom-Deere
2 Palo Alto Square, Suite 700
3000 El Camino Real
Palo Alto CA 94306

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OFFICE OF PETITIONS

In re Application of :
Knight, et al. : DECISION ON PETITION
Application No. 11/417,965 :
Filed: May 3, 2006 :
Atty. Dkt. No.: 060877-5010US :

This is a decision on the petition under 37 CFR 1.137(b), filed September 14, 2010.

The petition is **GRANTED**.

This application became abandoned September 11, 2010 for failure to timely reply to the Notice of Allowance and Issue Fee Due (Notice) mailed June 10, 2010. The Notice set a three (3) month statutory period of time for reply. Notice of Abandonment was mailed September 23, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The instant petition has been carefully reviewed and found in compliance with the requirements set forth above.

In view thereof, this application is being forwarded to the Office of Data Management for further processing.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3205.

/ALESLA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions



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MAR 11 2011

OFFICE OF PETITIONS

L'Oreal USA
Patent Department
133 L'Oreal Way
Clark, NJ 07066

In re Application of
Hy Si Bui, et. al.
Application No. 11/417,981
Filed: May 3, 2006
Attorney Docket No. OA06157

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2010, to revive the above-identified application.

The application became abandoned for failure to timely file a proper reply to the final Office action mailed May 26, 2010.

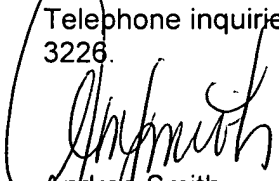
The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Notice of Appeal with the \$540 fee; (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay. Therefore, the petition is **granted**.

The two-month period for filing an appeal brief under 37 CFR 41.37 (accompanied by the \$540 fee required by 37 CFR 41.20(b)(2)), runs from the date of this decision.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r. Pats. 1988). Accordingly, since the \$490 extension of time submitted with the petition on was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

This application is being referred to Technology Center Art Unit 1627 to await the filing of an appeal brief or for such other appropriate reply as may be submitted to continue prosecution of the above application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: Soljanin 8-1-12 (E)-US-NP

Patent Number: 7,669,103

Filing Date
(or 371(b) or (f) Date): May 3, 2006

Issue Date: February 23, 2010

First Named
Inventor: Emina Soljanin

Title: Encoded transmission

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/

Date August 10, 2010

Name
(Print/Typed) Gregory J. Murgia

Registration Number 41,209

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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HITT GAINES, PC
ALCATEL-LUCENT
PO BOX 832570
RICHARDSON, TX 75083

Mail Date: 08/18/2010

Applicant	: Emina Soljanin	: DECISION ON REQUEST FOR
Patent Number	: 7669103	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/418,158	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/03/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **949** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

Mail Date: 08/02/2010

Applicant	: Jeong-yeon Park	: DECISION ON REQUEST FOR
Patent Number	: 7654639	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/418,184	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **789** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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PHILIP H. BURRUS, IV
460 Grant Street
Atlanta, GA 30312

MAILED

AUG 30 2010

In re Application of
Philip Robert Shapiro
Application No. 11/418,229
Filed: May 4, 2006
Attorney Docket No. BPPSP0001PS

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 21, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Philip H. Burns, IV on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Philip Robert Shapiro at the address indicated below.

There is an outstanding Office action mailed August 17, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

A handwritten signature in black ink that reads "Terri Johnson". The signature is written in a cursive, flowing style.

Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Philip Robert Shapiro**
18653 Ventura Boulevard
Tarzana, CA 91356-4103



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/418,229	05/04/2006	Philip Robert Shapiro	BPPSP0001PS

CONFIRMATION NO. 1658

POWER OF ATTORNEY NOTICE



Date Mailed: 08/30/2010

27939
PHILIP H. BURRUS, IV
460 Grant Street
Atlanta, GA 30312

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 07/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12-18-10

TO SPE OF : ART UNIT 3693

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/418474 Patent No.: 7584144

CofC mailroom date: 12-01-10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

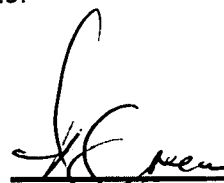
Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580



Certificates of Correction Branch
Angela Green

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved

All changes apply.

☐ Approved in Part

Specify below which changes do not apply.

☐ Denied

State the reasons for denial below.

Comments: The certificate of correction does not add new matter or change scope of the
allowed claims.

JNP

/James Kramer/

3693

SPE

Art Unit



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KOS PHARMACEUTICALS, INC.
1 CEDAR BROOK DRIVE
CRANBURY NJ 08512-3618

MAILED

MAY 02 2011

OFFICE OF PETITIONS

In re Application of :
WILLIAMS, et al :
Application No. 11/418,527 : **DECISION ON PETITION**
Filed: May 3, 2006 :
Attorney Docket No. 900001-2117 CIP 1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 31, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 1, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1620; and (3) a statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1110 extension of time fee submitted with the petition on February 22, 2011, was subsequent

to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's Deposit Account No. 50-4851.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 3771 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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DANIEL B. RUBLE
SEALED AIR CORPORATION
P.O. BOX 464
DUNCAN SC 29334

MAILED

FEB 29 2012

OFFICE OF PETITIONS

In re Application
Slawomir Opusko et al.
Application No. 11/418,583
Filed: May 5, 2006
Attorney Docket No. D-43993-01

:
:
: DECISION ON APPLICATION
: FOR PATENT TERM ADJUSTMENT
:

This is in response to the Request for Reconsideration under 37 CFR 1.705(b) of Patent Term Adjustment filed February 6, 2012. Applicant requests that the determination of patent term adjustment be corrected from 0 days to 1315 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and is being considered in light of the recent court decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **DISMISSED**.

On January 20, 2012 the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 0 days. On February 6, 2012, applicant timely submitted the instant application for patent term adjustment. Applicant maintains an additional period of adjustment should be entered for a total of 496 days under 37 C.F.R. § 1.703(a). Applicant argues that "the application was filed on May 5, 2006. The date of mailing of an action under 35 U.S.C. § 132 (in this case a Restriction Requirement) was mailed November 12, 2008. The date that is 14 months after the filing date is July 5, 2007. The period beginning on the day after July 5, 2007 and ending on November 12, 2008 is 496 days."

Applicant states that the above-identified application is not subject to a terminal disclaimer.

Applicant's argument has been considered, but not found persuasive. An Office Action was mailed on July 21, 2008, thereafter, a second Office Action was mailed on November 12, 2008. The mailing of a second Office action does not negate the fact that the Office took action in this application within the meaning of § 1.702(a)(1) on July 21, 2008. Accordingly, entry of a period of adjustment of 496 days for Office delay in mailing a further notification is not warranted.

¹For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Additionally, applicants argue that the period of delay attributed to the applicant is a total of 364 days or the sum of $63 + 92 + 93 + 55 + 61$ days. While applicants begin the calculation for PTO delay on the certificate of mail dates, applicants are reminded that they are not entitled to the calculation based on the certificate of mail dates and thus the periods of delay pursuant to 37 CFR 1.704(b) have been properly calculated as $65 + 97 + 96 + 60 + 64$ days for the dates the responses were received. Further, applicants calculation does not include two periods of applicant delay for supplemental responses filed October 20, 2008 for 28 days and on June 1, 2009 for 4 days.

Pursuant to 37 CFR § 1.704(c)(8), the submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, is a failure to engage in reasonable efforts to conclude prosecution.

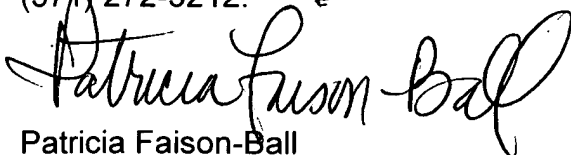
In this instance, the filing of the Information Disclosure Statements on October 20, 2008 and on June 1, 2009 is considered a failure to engage under 1.704(c)(8). The record does not support a conclusion that the IDS' were expressly requested by the examiner and neither did the IDS' include a 1.704(d) statement.

In view thereof, the determination of patent term adjustment at the time of the mailing of the notice of allowance remains 0 (382 "A delay days" - 414 Applicant delay days).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3212.

A handwritten signature in black ink, appearing to read "Patricia Faison-Ball", written in a cursive style.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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MCANDREWS HELD & MALLOY LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of	:
Yuqian C. Wong	:
Application No. 11/418,588	:
Filed: May 4, 2006	:
Attorney Docket Number: 18352US01	:
	: ON REQUEST FOR
	: RECONSIDERATION OF
	: PATENT TERM ADJUSTMENT

This is a decision on the petition under 37 CFR 1.705(b), filed December 22, 2010. Applicant believes that he should be accorded an additional PTA of 115 days. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment solely as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file a request for reconsideration of patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

In view thereof, the correct determination of PTA prior to issuance is **one hundred thirty (130) days**.

The application is being forwarded to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Petitions Attorney Cliff Congo at (571) 272-3207.



Anthony Knight
Director
Office of Petitions

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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RICHARD L. MARSH
4116 E. LATOKA
SPRINGFIELD MO 65809

MAILED

SEP 13 2010

In re Application of	:	OFFICE OF PETITIONS
O'Doan, Thomas F.	:	
Application No. 11/418,776	:	ON PETITION
Filed: May 6, 2006	:	
Attorney Docket No. 20529	:	

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 23, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center AU 3641 for further examination on the merits.

Liana Walsh
Petitions Examiner
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/418,790	05/05/2006	Yosef Gross	A92.12-0041	1827
<div>27367 7590 04/13/2011 WESTMAN CHAMPLIN & KELLY, P.A. SUITE 1400 900 SECOND AVENUE SOUTH MINNEAPOLIS, MN 55402</div>				
			EXAMINER PATEL, NATASHA	
			ART UNIT 3766	PAPER NUMBER
			MAIL DATE 04/13/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



**UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office**

Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11418790	5/5/06	GROSS ET AL.	A92.12-0041

EXAMINER

CARL H.. LAYNO

ART UNIT	PAPER
----------	-------

3766

20110411

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

See the attached Decision regarding approval of Applicant's Request to Correct Inventorship filed under 37 CFR 1.48(a).

/Carl H. Layno/
Supervisory Patent Examiner, Art Unit 3766

Decision on Request for Correction of Inventorship under 37 CFR 1.48(a)

1. In view of the papers filed 7/17/2008, it has been found that this nonprovisional application, as filed, through error and without deceptive intent, improperly set forth the inventorship, and accordingly, this application has been corrected in compliance with 37 CFR 1.48(a). The inventorship of this application has been changed by the addition of co-inventor Ross A. Longhini.

The application will be forwarded to the Office of Initial Patent Examination (OIPE) for issuance of a corrected filing receipt, and correction of Office records to reflect the inventorship as corrected.

/Carl H. Layno/

Supervisory Patent Examiner, Art Unit 3766



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WESTMAN CHAMPLIN & KELLY, P.A.
SUITE 1400
900 SECOND AVENUE SOUTH
MINNEAPOLIS MN 55402

MAILED

AUG 29 2011

OFFICE OF PETITIONS

In re Application of :
Yosef Gross et al :
Application No. 11/418,790 : DECISION GRANTING PETITION
Filed: May 5, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. A92.12-0041 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 25, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 9, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 3766 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/418,813	05/05/2006	Jay Dittmer	3156.61US01	9323
24113 7590 12/05/2011 PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100			EXAMINER STERLING, AMY JO	
			ART UNIT 3632	PAPER NUMBER
			MAIL DATE 12/05/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

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DEC - 7 2011

PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS, MN 55402-2100

In re Application of: :
DITTMER et al. :
Application No. 11/418,813 : **DECISION ON PETITION**
Filed: May 5, 2006 : **UNDER 37 CFR 1.181**
For: ADJUSTABLE PROJECTOR MOUNT :

This is a decision in response to the petition under 37 CFR 1.144 and 37 CFR 1.181 received on December 16, 2010 requesting review of the restriction requirement. The delay in treating this petition is regretted.

The petition is **DISMISSED as moot**.

Applicant seeks supervisory review of the restriction requirement made final in the Office action mailed May 3, 2010.

A review of the prosecution history reveals a Requirement for Restriction was made in an Office action mailed June 19, 2009 and supplemented in an Office action mailed October 8, 2009 and January 4, 2010. An election was made in a response filed March 4, 2010. In an Office action mailed May 3, 2010, the restriction requirement was made final with claims 9-11, 27, 28, 32, 33, 37 and 38 withdrawn from consideration as being drawn to a non-elected invention. On February 23, 2011, in a Notice of Allowability, the examiner rejoined claims 9-11, 27, 28, 32, 33, 37 and 38 "because the claim(s) requires all the limitations of an allowable claim." Accordingly, the petition is dismissed as moot.

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045


Katherine Matecki, Director
Technology Center 3600
(571) 272-5250

KM/tl: 11/23/11



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10210 GENETIC CENTER DRIVE
Mail Stop #1 / Patent Dept.
SAN DIEGO CA 92121

MAILED
JAN 30 2012
OFFICE OF PETITIONS

In re Application of	:	
Marlowe et al.	:	
Application No. 11/418931	:	ON APPLICATION FOR
Filing or 371(c) Date: 05/04/2006	:	PATENT TERM ADJUSTMENT
Attorney Docket Number:	:	
GP178-02.UT	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed December 5, 2011. Applicants petition for reconsideration of the patent term adjustment calculation to 986 days, not zero (0) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent.

The Application for Patent Term Adjustment ("PTA") Under 35 U.S.C. § 154(b) and 37 C.F.R. § 1.705(b), is **GRANTED to the EXTENT INDICATED.**

The Application for Patent Term Adjustment ("PTA") Under 35 U.S.C. § 154(b) and 37 C.F.R. § 1.705(b), as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

BACKGROUND

On October 4, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is zero (0) days.

On December 5, 2011, applicants timely submitted the instant application for patent term adjustment¹. Applicants request that the Determination of Patent Term Adjustment be corrected from zero (0) days, as indicated on the Determination of PTA mailed October 4, 2011, to an

¹ PALM records show that the Issue Fee payment was received in the Office on December 5, 2011.

adjustment of 986 days. Applicants aver that the Office erred in failing to calculating an adjustment of 377 under 37 CFR 1.702(b). Applicants agree with adjustments of 41 days pursuant to 37 CFR 1.702(a)(1) and 629 days pursuant to 37 CFR 1.702(a)(2), and reduction of 61 days pursuant to 37 CFR 1.704(b).

OPINION

A review of Office records reveals that a non-final Office action was mailed on August 14, 2007. Applicants filed a reply to a non-final Office action on January 14, 2008. Applicant's thereafter filed an Information Disclosure Statement ("IDS"), on August 11, 2009. A reduction of 702 days commencing January 15, 2008, the day after the date that the reply to the non-final Office action was filed, and ending on the date the IDS was filed, August 11, 2009, pursuant to 37 CFR 1.704(c)(8), was properly assessed Applicants.

A further review of Office records reveals that the Office mailed a final Office action on February 2, 2010. Applicants filed a Request for Continued Examination ("RCE") in reply to the final Office action on May 17, 2010, and a reduction of 15 days, pursuant to 37 CFR 1.704(b), beginning on the day after the date that is three months after the date of mailing of the final Office action, May 3, 2010, and ending on the date the reply was filed, May 17, 2010 was properly assessed Applicants.

Office records reveal further that after applicants filed the reply to the final Office action on May 17, 2010, the Office mailed a non-final Office action on November 12, 2010, four (4) months and 56 days after Applicants filed the reply to the final Office action on May 17, 2010. An adjustment of 56 days, commencing September 18, 2010, the day after the date that is four months after the reply to the final Office action was filed, and ending on the date of mailing of the non-final Office action, on November 12, 2010, pursuant to 37 CFR 1.702(a)(2), was properly awarded Applicants.

Further to this, Office records reveal that in reply to the non-final Office action mailed November 12, 2010, Applicants filed an Amendment on February 22, 2011, three (3) months and 10 days after the mailing of the non-final Office action, and a reduction of 10 days, pursuant to 37 CFR 1.704(b), beginning on the day after the date that is three months after the date of mailing of the non-final Office action, February 13, 2011, and ending on the date the reply was filed, February 22, 2011, was properly assessed Applicants.

Finally, Office records confirm that the Office mailed a final Office action on May 11, 2011. Applicants filed a RCE in reply to the final Office action on September 7, 2011, and a reduction of 27 days, beginning on the day after the date that is three months after the date of mailing of the final Office action, August 12, 2011, and ending on the date the reply was filed, September 7, 2011, was properly assessed Applicants.

In view of the foregoing, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance remains zero (0) days (adjustments totaling 726 days less reductions totaling 815 days).

As to the Office's failure to issue the patent within 3 years of the filing date, knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee².

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent, including any request as it relates to the Office's failure to issue the patent within 3 years of the filing date, must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to

² For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions



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FIBROGEN, INC.
409 ILLINOIS STREET
SAN FRANCISCO CA 94158

MAILED
AUG 15 2011
OFFICE OF PETITIONS

In re Application of :
Ingrid LANGSETMO PAROBOK et al. :
Application No. 11/418,974 : **DECISION ON PETITION**
Filed: May 05, 2006 :
Attorney Docket No. FP0831 US :

This is a decision on the petition, filed June 16, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Office action of October 19, 2010, which set a three (3) month shortened statutory period for reply. Accordingly, a reply was due on or before January 19, 2011. Accordingly, the application became abandoned on January 20, 2011.

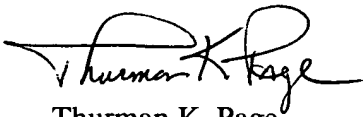
Petitioner states that a timely reply was mailed via certificate of mailing on April 18, 2011, which included a three month extension of times. Petitioner has submitted a copy of the previously mailed correspondence, which bears a certificate of mailing date of April 18, 2011 and a return postcard receipt with a USPTO mailroom date of April 25, 2011.

A review of the Office records indicates that the reply along with a three month extension of time was in fact filed with a certificate of mailing date of April 18, 2011, which would have rendered the reply timely if received.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of October 19, 2010 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 1647 for appropriate action in the normal course of business on the reply received in the Office April 25, 2011 with the certificate of mailing date of April 18, 2011.

A handwritten signature in black ink, appearing to read "Thurman K. Page". The signature is fluid and cursive, with the first name "Thurman" and last name "Page" clearly distinguishable.

Thurman K. Page
Petitions Examiner
Office of Petitions



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FITCH EVEN TABIN & FLANNERY
120 SOUTH LASALLE STREET
SUITE 1600
CHICAGO, IL 60603-3406

MAILED
FEB 23 2011
OFFICE OF PETITIONS

In re Application of	:	
Xiao Dong Mao	:	
Application No.: 11/418,989	:	ON PETITION
Filed: May 4, 2006	:	
Attorney Docket No.: 92110 [SCEA05076US00]	:	

This is a decision on the petition, filed February 22, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is not signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Shirin Tefagh appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 7, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2614 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE

3-9-11

Paper No.:

TO SPE OF

ART UNIT 3637

SUBJECT

: Request for Certificate of Correction for Appl. No.: 11/419,004 Patent No.: 7886919

CoFC mailroom date: 2-25-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Check Claims

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CoFC)
Randolph Square -- 9D10-A
Palm Location 7580

Ennis Young
Certificates of Correction Branch
703-756-1814

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Darnell Jayne/ AU 3637

SPE

Art Unit



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740 WEST NEW CIRCLE ROAD
BLDG. 082-1
LEXINGTON KY 40550-0999

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FEB 08 2011

OFFICE OF PETITIONS

In re Application of	:	
ANDERSON, et al	:	
Application No. 11/419,040	:	DECISION ON PETITION
Filed: May 18, 2006	:	
Attorney Docket No. 2005-0639.03	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 24, 2009, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before January 8, 2009, as required by the Notice of Allowance and Fee(s) Due (Notice), mailed October 8, 2008, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on January 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300; (2) the petition fee of \$1620; and (3) a statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future

correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

cc: Frances Tims
 5000 Denton Hwy Apt. 730
 Haltom City, TX 76117

Attachment: A courtesy copy of the August 13, 2009 Office action.



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FRAN TIMS
5000 DENTON HWY., 730
HALTOM CITY, TX 76117-1469

MAILED

NOV 01 2010

In re Application of
Frances Maxine Dougherty Tims
Application No. 11/419,119
Filed: May 18, 2006
Attorney Docket No. 0572 M-002

OFFICE OF PETITIONS
ON PETITION

This is a decision on the renewed petition, filed September 20, 2010 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A petition to revive cannot be treated where there is an outstanding requirement. In the instant case, there was no response to the August 13, 2009 Office action. A courtesy copy of this Office action is being mailed with this decision. Accordingly, the petition to revive cannot be treated until the response to the August 13, 2009 Office action is received.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

A handwritten signature in cursive script, appearing to read "Irvin Dingle".

Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: A courtesy copy of the August 13, 2009 Office action.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/419,119	05/18/2006	Frances Maxine Dougherty Tims	0572M-002	8785

42214 7590 08/13/2009
GUY V. MANNING
1407 TEXAS STREET
SUITE 102
FORT WORTH, TX 76102

EXAMINER

FRANKLIN, JAMARA ALZAIDA

ART UNIT	PAPER NUMBER
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2876

MAIL DATE	DELIVERY MODE
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08/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 11/419,119	Applicant(s) TIMS, FRANCES MAXINE DOUGHERTY	
	Examiner JAMARA A. FRANKLIN	Art Unit 2876	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date: ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>5/22/06</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Objections

1. Claims 1 and 17 are objected to because of the following informalities:

in claim 1, line 13, substitute "numeral" with --numeral--;

in claim 1, line 14, substitute "menas" with --means--;

in claim 17, line 20, substitute "an" with --a--;

in claim 17, line 23, substitute "it" with --the label--; and

in claim 17, line 26, substitute "it" with --the label--;

Appropriate correction is required.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-12, 14, 15, 17, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Sisson (US 5,582,433).

Sisson (cited by the applicant) teaches

regarding claim 1, a system for pricing goods comprising

a backing layer (release paper backing 46);

a self-adhesive label (stickers 15) having a length and a width and adapted to removably attach to the goods, the label having

a printable surface (front surface of sticker 15);

a back surface (rear surface of sticker 15) opposite the printed surface;

adhesive (adhesive on partial adhesive section 19) means for adhering the label to the goods; and

a printed price disposed onto the printable surface in visible media, the price having a symbol signifying a standard unit of money;

a numeral disposed juxtaposed the symbol for indicating a nominal base amount for the printed price;

fraction demarcation means associated with the numeral for indicating a fractional increment to the numeral; and

a fraction space disposed adjacent the fraction demarcation means opposite the numeral for manual entry a fractional portion of the standard unit of money;

the pricing system wherein the backing layer comprises a flexible web having

a web length substantially equal to at least one multiple of the label length; and

a web width substantially equal to at least one multiple of the label width (see figure 1);

and

an adherent surface adapted to removably receive at least one label affixed thereto by the adhesive means;

the pricing system wherein the adhesive means comprises an adhesive layer bonded to the back surface;

Art Unit: 2876

the pricing system wherein the fractional demarcation means
comprises

a line underscoring the fraction space;

the pricing system wherein the fractional demarcation means
comprises

a decimal symbol disposed between the numeral and the fraction space;

the pricing system wherein

the labels are rectangular;

the pricing system wherein

a portion of the rear surface (nonadhesive section 23) of each of the labels is free of the
adhesive means;

the pricing system wherein the portion of the rear surface that is
free of the adhesive means comprises

one corner of the labels (see figure 4);

the pricing system wherein

the adhesive means covers at least 90 percent of the rear surface;

the pricing system further comprising

a pre-printed characteristic space provided adjacent the pre-printed price;

the pricing system further comprising

a pre-printed ownership space provided adjacent the pre-printed price;

the pricing system further comprising

a pre-printed characteristic space provided adjacent the pre-printed price.

Art Unit: 2876

regarding claim 14, a system for providing self-adhesive labels for pricing goods, the system comprising

a plurality of backing layers, each backing layer having

a length substantially equal to at least one multiple of a label length; and

a width substantially equal to at least one multiple of a label width; and

an adherent surface adapted to removably receive a plurality of labels affixed

thereto; and

a plurality of self-adhesive labels disposed in a regular array on the adherent surface, the array having at least one row parallel the backing layer length, each label having

a printable front surface and a rear surface opposite the front surface;

a label length substantially an even fraction of the length of the backing layer; a

label width substantially an even fraction of the width of the backing layer;

an adhesive layer disposed on a portion of the rear surface and adapted to removably attach the label to the adherent surface and to the goods, the label having

a pre-printed price disposed on the printable front surface, the price having

a symbol signifying a standard unit of money;

a numeral disposed juxtaposed the symbol for indicating a nominal base amount for the printed price;

a decimal associated with the numeral; and

a space disposed adjacent the decimal opposite the numeral for manual entry of a fractional portion of the standard unit of money

Art Unit: 2876

a pre-printed ownership space disposed on the printable front surface adjacent the pre-printed price; and

a pre-printed characteristic space disposed on the printable front surface adjacent the pre-printed price and opposite the ownership space;

the pricing system wherein

the array of labels comprises a plurality of rows and columns; and

the backing layer comprises a rectangular sheet adapted to be packaged in substantially flat displays of multiple backing layers (see figure 8);

regarding claim 17, an improved method of pricing garage sale items for a garage sale conducted by multiple owners of garage sale items, the method comprising

providing a plurality of sheets of self-adhesive pricing labels, each sheet having

a plurality of self-adhesive labels removably disposed on a backing layer, each label adapted to removably attach to the goods having

a length, a width, a printable front surface and a back surface opposite the printed surface;

adhesive means adapted to adhere the label to the goods;

a pre-printed price disposed on the printable surface, the price having

a symbol signifying a standard unit of money;

a numeral disposed juxtaposed the symbol for indicating a nominal base amount for the pre-printed price;

a decimal associated with the numeral; and

a space disposed adjacent the decimal opposite the numeral for manual entry a fractional portion of the standard unit of money

a pre-printed ownership space disposed on the printable front surface adjacent the pre-printed price; and

a pre-printed characteristic space disposed on the printable front surface adjacent the pre-printed price and opposite the ownership space; and

providing a tally board having an tally board adherent layer adapted to receive the labels; then

(a) entering a fractional portion on selected labels;

(b) removing each label and attaching it to an item; then

(c) collecting from a buyer of each item the sum of the nominal base amount and the fractional portion; then

(d) removing the label from the item and affixing it to the tally board; then

(e) repeating steps (a) through (d), inclusive, for each item in the garage sale; then

(f) distributing revenues from the sale according to the sum of labels on the tally board (col. 5, lines 29-44).

Regarding the preprinted and printed characters, marks, and symbols on the label as claimed in claims 1-19, the office contends that where the only difference between a prior art product and a claimed product is printed matter that is not functionally related to the product, the content of the printed matter will not distinguish the claimed product from the prior art. In re Ngai, **>367 F.3d 1336, 1339, 70 USPQ2d 1862, 1864 (Fed. Cir. 2004)< (Claim at issue was a kit requiring instructions and a buffer agent. The Federal Circuit held that the claim was

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anticipated by a prior art reference that taught a kit that included instructions and a buffer agent, even though the content of the instructions differed.). See also *In re Gulack*, 703 F.2d 1381, 1385-86, 217 USPQ 401, 404 (Fed. Cir. 1983)("Where the printed matter is not functionally related to the substrate, the printed matter will not distinguish the invention from the prior art in terms of patentability [T]he critical question is whether there exists any new and unobvious functional relationship between the printed matter and the substrate.").

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 13, 16, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over *Sisson* in view of *Berland* (US 4,969,762).

The teachings of *Sisson* have been discussed above.

Sisson lacks the teaching of a box adapted to contain the rolled tape.

Berland teaches a box adapted to contain the rolled tape and having an interior and an exterior surface (figures 3 and 4);

a slot for communicating between the interior and the exterior surface whereby the rolled tape may be extended outside the box; and

a writing surface disposed on the outside of the box whereon the labels may be supported while they are marked upon.

Art Unit: 2876

One of ordinary skill in the art would have readily recognized that providing the Sisson invention with a box adapted to contain the rolled tape would have been beneficial since the box could store the rolled tape when the tape is not in use and also serve as a stable support for dispensing of labels from the tape. Therefore it would have been obvious at the time the invention was made to modify the teachings of Sisson with the aforementioned teaching of Berland.

Conclusion

6. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Mangini et al. (US 4,976,351) teach a kit for distributing pharmaceutical products.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JAMARA A. FRANKLIN whose telephone number is (571)272-2389. The examiner can normally be reached on Monday through Friday 8:00am to 4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (571) 272-2398. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Jamara A. Franklin/
Primary Examiner, Art Unit 2876

July 28, 2009
JAF



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FRAN TIMS
5000 DENTON HWY., 730
HALTOM CITY, TX 76117-1469

MAILED

MAR 14 2011

**OFFICE OF PETITIONS
ON PETITION**

In re Application of :
Frances Maxine Dougherty Tims :
Application No. 11/419,119 :
Filed: May 18, 2006 :
Attorney Docket No. 0572 M-002 :

This is a decision on the renewed petition, filed December 17, 2010 under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A courtesy copy of the Petition for Extension of Time Under 37 CFR 1.136(a) Form and the Privacy Act Statement accompanies this decision.

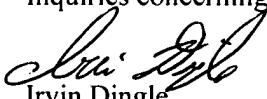
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITION
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300, ATTN: Office of Petitions

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

Attachments: A courtesy copy of the Petition for Extension of Time Under 37 CFR 1.136(a) Form and the Privacy Act Statement



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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FEB 16 2011

OFFICE OF PETITIONS

In re Application of :
KARAOGUZ, JEYHAN :
Application No. 11/419,153 : ON APPLICATION FOR
Filed: 05/18/2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. 17058US02 :

This is in response to the APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705) filed January 13, 2011. Applicants submit that the correct patent term adjustment to be indicated on the patent is 1230 days, not 586 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

¹ For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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FISH & RICHARDSON P.C. (DC)
PO BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JAN 20 2012
OFFICE OF PETITIONS

In re Patent No. 8,050,853
Issued: November 1, 2011
Application No. 11/419,187
Filed: May 18, 2006
Attorney Docket No. 20211-0081001

:DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT
: AND
: NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on January 3, 2012, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 1002 to 1194 days.

The request for review of the patent term adjustment is **GRANTED** to the extent indicated herein.

The patent term adjustment indicated in the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of ONE THOUSAND FIFTY-EIGHT (1058) days.

Patentees are given **THIRTY (30) DAYS or ONE (1) MONTH, whichever is longer**, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

On November 1, 2011, the above-identified application matured into U.S. Patent No. 8,050,853 with a patent term adjustment of 1002 days. On January 3, 2012, Patentees submitted the instant application.

Applicants dispute the reduction of 2 days for the response filed December 15, 2010. The USPTO mailed a Final Office Action to the applicants on August 13, 2010, setting a shortened statutory period of three months to reply. The three month response date fell on November 13, 2010, which was a weekend day. The applicants filed a response to the Office Action on December 13, 2010, and argues that the period of delay should be calculated from November 15, 2010, the next business day.

In *Arque v. Kappos*, __ F.Supp.2d __ (D.D.C. 2011), the District Court of the District of Columbia ruled that the 35 U.S.C. § 21 (b) "weekend add holiday" exception applies to

"any action" including the § 154(b)(2)(C). Accordingly, because November 13, 2010 was a Saturday, the time period to calculate Applicant delay commenced on November 15, 2010 rather than November 13, 2010. Therefore, a delay of 30 days was accrued, corresponding to the time period between November 13, 2010 (three months after the mailing date of the Office Action, in accordance with 37 CFR §1.704(b)) and December 13, 2010. Applicants respectfully request the Office to remove the 30 days of Applicant delay and correct the total Applicant delay from 30 days to 28 days as it relates to 37 CFR §1.704(b)).

The reduction is being reconsidered and, based upon the decision in the Arquele case, it is determined that entry of a reduction for this reply timely filed pursuant to 35 U.S.C. §21(b) is not warranted. Accordingly, the period of reduction of 30 days is being removed.

Thus, instead of a 30 days reduction for applicant delay pursuant to 37 C.F.R. §1.704(b), 28 days should have been accorded for applicant delay.

Patentees disclose that the patent term adjustment of 0 days indicated on the front of the patent is incorrect because "Patentees filed an Information Disclosure Statement on January 3, 2011, subsequent to a reply filed on December 13, 2010. Patentees were accorded 0 days delay for a supplemental response. In good faith and candor, Patentees submit that the supplemental response should have been accorded a total Applicant Delay of 21 days for delay from December 14, 2010, to January 3, 2011. See 37 C.F.R. § 1.704(c)(8)."

Patentee argues further that the IDS filed June 22, 2011 was improperly coded as a "Miscellaneous Incoming Letter" and that a period of 120 days applicant delay was accorded pursuant to 37 CFR 1.704(c)(10). Patentee argues that instead of 120 days, a period of 45 days is appropriate for delay for the Amendment Pursuant to 37 C.F.R. § 1.312 under 37 C.F.R. § 1.704(c)(10), from June 22, 2011, to August 5, 2011, and Patentees ask that the Office recalculate this period of Applicant Delay as 45 days.

Applicant's argument has been considered.

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or
(ii) Four months;

As stated in MPEP 2732:

37 CFR 1.704(c)(10) establishes submission of an amendment under 37 CFR 1.312 or other paper after a notice of allowance has been given or mailed as a circumstance that constitutes a failure of an applicant to engage in reasonable efforts to conclude processing or examination of an application. The submission of amendments (or other papers) after an application is allowed may cause substantial interference with the patent issue process.

Certain papers filed after allowance are not considered to be a failure to engage in reasonable efforts to conclude processing or examination of an application. See *Clarification of 37 CFR 1.704(c)(10) – Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001). The submission of the following papers after a “Notice of Allowance” is not considered a failure to engage in reasonable efforts to conclude processing or examination of an application: (1) Fee(s) Transmittal (PTOL-85B); (2) Power of Attorney; (3) Power to Inspect; (4) Change of Address; (5) Change of Status (small/not small entity status); (6) a response to the examiner’s reasons for allowance or a request to correct an error or omission in the “Notice of Allowance” or “Notice of Allowability;” and (7) letters related to government interests (e.g., those between NASA and the Office). Papers that will be considered a failure to engage in reasonable efforts to conclude processing or examination of an application include: (1) a request for a refund; (2) a status letter; (3) amendments under 37 CFR 1.312; (4) late priority claims; (5) a certified copy of a priority document; (6) drawings; (7) letters related to biologic deposits; and (8) oaths or declarations.

The reduction of 120 days has been found to be incorrect. A review of the application file, as stated by Patentee, supports a conclusion that the reduction should be from the filing of the Amendment under 37 CFR § 1.312 on June 22, 2011 to the mailing of the response on August 5, 2011 and thus the period of delay pursuant to 37 C.F.R. § 1.704(c)(10) is therefore 45 days.

In view of the periods of Applicant Delay detailed above, the total Applicant Delay for this patent should be calculated as 195 days (i.e., the sum of 90 + 28 + 10 + 1 + 45 + 21 days).

Patentee also maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the “B delay” a period of time that was not “consumed by continued examination of the

application.” Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on June 9, 2011, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 146 day period from June 9, 2011 (the mailing date of the Notice of Allowance) until November 1, 2011 (the date the patent was issued). As such, Patentee maintains that the “B delay” should include the 146 days and be increased from 573 to 719 days. Patentee concludes that the correct patent term adjustment is 1194 days (the sum of 805 days of “A delay” and 719 days of “B delay” minus 135 days overlap minus 195 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

37 CFR 1.704 (c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed;

The statutory basis for calculation of “B delay” is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

- (1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);
- (2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);
- (3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;
- (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or
- (5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

As it relates to the calculation of "B delay," Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 573 days based on the application having been filed under 35 U.S.C. 111(a) on May 18, 2006 and the patent not having issued as of the day after the three year date, May 18, 2009, and a request for continued examination under 132(b) having been filed on December 13, 2010. In other words, the 146-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)¹.

¹ Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

- (a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:
 - (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
 - (2) Abandonment of the application; or
 - (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35

So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no

U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)². Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law.

² Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

See 35 U.S.C. 131 (“[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor”). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 (“[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant”). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 (“[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application”). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO’s responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO’s duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) (“[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned”). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the

request for examination procedures³ permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on December 13, 2010, and the patent issued by virtue of that request on November 1, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on December 13, 2010 and ending on November 1, 2011 is not included in calculating Office delay.

CONCLUSION

As such, the patent term adjustment is 1058 days (805 "A delay" days plus 573 "B delay" days minus 125 overlap days minus 195 Applicant delay days), not 1194 days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

³ Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one thousand fifty-eight (1058)** days.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.

A handwritten signature in black ink, reading "Patricia Faison-Ball". The signature is written in a cursive, flowing style with a large initial 'P' and 'B'.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT
UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 8,050,853 B2

DATED : November 1, 2011

INVENTOR(S) : Mun Ho Jung

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (1002) days

Delete the phrase "by 1002 days" and insert – by 1058 days--



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BARNES & THORNBURG LLP
P.O. BOX 2786
CHICAGO IL 60690-2786

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AUG 03 2011

OFFICE OF PETITIONS

In re Application of :
Arnold Herskovic :
Application No. 11/419,248 : **DECISION ON PETITION**
Filed: May 19, 2006 :
Attorney Docket No. 40780-10289 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 11, 2011, to revive the above-identified application.


This application became abandoned for failure to timely pay the issue and publication fees on or before June 18, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed March 18, 2011. Accordingly, the date of abandonment of this application is June 19, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$755 and the publication fee of \$300, (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the status of this application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred to the Office of Data Management for processing into a patent.


April M. Wise
Petitions Examiner
Office of Petitions



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P.O. Box 1450
Alexandria, VA 22313-1450
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DUBOIS, BRYANT, CAMPBELL & SCHWARTZ, LLP
700 LAVACA STREET
SUITE 1300
AUSTIN TX 78701

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Application of	:	
Drane, et al.	:	DECISION GRANTING
Application No.: 11/419,317	:	STATUS UNDER
Filed: May 19, 2006	:	37 CFR 1.47(a)
Attorney Docket No.: 1120-701USPT	:	

This is a decision on the reconsideration petition under 37 CFR 1.47(a), filed June 26, 2007.

The petition is **GRANTED**.


Petitioners have shown that the non-signing inventor, David Rowland cannot be located to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

This application is being referred to the Office of Data Management to await receipt of a completed PTOL-85 Part (B) Fee(s) Transmittal, the \$755.00 issue fee, and the \$300.00 publication fee.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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BARLOW, JOSEPHS & HOLMES, LTD.
101 DYER STREET
5TH FLOOR
PROVIDENCE RI 02903

Paper No.

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OFFICE OF PETITIONS

In re Application of :
Schindele et al. : DECISION ON PETITION
Application. No. 11/419,371 :
Filed: May 19, 2006 :
Atty Docket No. L040 P01346-US :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed September 21, 2010.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply to the Notice to File Corrected Application Papers mailed June 14, 2010. The Notice set a time limit for reply of two (2) months from the mail date of the Notice. This period was not extendable under 37 CFR 1.136(a). Accordingly, the above-identified application became abandoned on August 15, 2010. A courtesy Notice of Abandonment was mailed on August 30, 2010.


Petitioner has satisfied the requirements of 37 CFR 1.137(b). The petition includes the required reply in the form of an amendment to the specification (to correct drawing inconsistencies); the petition fee; and the required statement of unintentional delay.

The petition also included a terminal disclaimer. However, no terminal disclaimer is required to revive this application. Accordingly, the terminal disclaimer is not being entered on petition. If no terminal disclaimer is necessary for another purpose, applicant may request refund of the terminal disclaimer fee. (To avoid entry of a period of reduction of patent term

adjustment pursuant to 37 CFR 1.704(c)(10), applicant might consider filing any request for refund after the issuance of the patent. See 1.28(b)).

The Office of Data Management is being advised of this decision. The application is thereby forwarded for processing of the response to the Notice of Corrected Application Papers, including continued processing into a patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in dark ink, appearing to read "Nancy Johnson", with a long horizontal flourish extending to the right.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

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AUG 17 2010

OFFICE OF PETITIONS

In re Patent No. 7,708,172 :
Issue Date: May 4, 2010 :
Application No. 11/419,399 :
Filed: May 19, 2006 :
Attorney Docket No. 3712131-00041 :

ON PETITION

This is a decision on the petition filed July 8, 2010, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the JoAnne Burke at (571) 272-4584. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

As authorized, the \$130 fee for the petition under 37 CFR 3.81(b) has been assessed to petitioner's deposit account.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

JoAnne Burke
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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JUN 27 2011

OFFICE OF PETITIONS

FULBRIGHT & JAWORSKI L.L.P.
600 CONGRESS AVE.
SUITE 2400
AUSTIN TX 78701

In re Patent No. 7,892,387 :
Issue Date: February 22, 2011 :
Application No. 11/419,400 : **ON PETITION**
Filed: May 19, 2006 :
Attorney Docket No. ESSR:114US/10606676 :

This is a decision on the petition May 17, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

Thurman K. Page
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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P.O. Box 1450
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TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

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SEP 20 2010

OFFICE OF PETITIONS

In re Application	:
Arthur, et al.	:
Application No. 11/419,413	: DECISION ON APPLICATION
Filed: May 19, 2006	: FOR PATENT TERM ADJUSTMENT
Docket No. 020375-044110US	:

This is a decision on the petition under 37 CFR 1.705(b), filed July 2, 2010. Applicants request that the initial determination of patent term adjustment under 35 U.S.C. 154(b) be corrected from three hundred thirteen (313) days to two hundred sixteen (216) days.

The application for patent term adjustment is **DISMISSED**.

On October 1, 2009, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date was three hundred thirteen (313) days.

The Office initially determined a patent term adjustment of three hundred thirteen (313) days based on an adjustment for PTO delay of three hundred twenty-eight (328) days pursuant to 35 U.S.C. 154(b)(1)(A)(i) and 37 CFR § 1.703(a)(1), reduced by fifteen (15) days of applicant delay pursuant to 37 CFR § 1.704(c)(8).

However, Applicants point out that ninety-seven (97) additional days of Applicant delay should have been assessed, also pursuant to 37 CFR § 1.704(c)(8). Applicants point out that they filed an IDS on April 22, 2009, subsequent to filing a reply on January 15, 2010. However, the Office mailed a non-final Office action on April 7, 2009. Accordingly, as the non-final Office action was mailed prior to the filing of the IDS, the IDS in this instance is not deemed to constitute a supplemental reply.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the Notice of Allowance is **three hundred thirteen (313) days** (328 days of PTO delay, reduced by 15 days of applicant delay).

Receipt of the \$200 fee for filing the instant application for patent term adjustment is acknowledged.

The application is being forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries specific to this matter should be directed to Cliff Congo, Petitions Attorney, at (571)272-3207.



Anthony Knight
Director
Office of Petitions



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11419413 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11419413

Application Filing Date	05/19/2006	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	328
A Delays	328	PTO Manual Adjustment	0
B Delays	0	Applicant Delay (APPL)	15
C Delays	0	Total PTA (days)	313

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
68	05/05/2010		MIN/	Mail Notice of Allowance			0
67	05/05/2010		IREV	Issue Revision Completed			0
66	05/05/2010		DVER	Document Verification			0
65	05/05/2010		N/A	Notice of Allowance Date Verification Completed			0
64	05/05/2010		EXLA	Examiner's Amendment Communication			0
63	05/05/2010		CNTA	Notice of Allowability			0
62	01/20/2010		FWDX	Date Forwarded to Examiner			0
59	01/20/2010		ABN9	Disposal for a RCE / CPA / R129			0
61	01/15/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
60	01/15/2010		RCEX	Request for Continued Examination (RCE)			0
58	01/15/2010		BRCE	Workflow - Request for RCE - Begin			0
57	10/15/2009		MCTFR	Mail Final Rejection (PTOL - 326)			0
56	10/13/2009		CTFR	Final Rejection			0
49	07/29/2009		FWDX	Date Forwarded to Examiner			0
55	07/06/2009		IDSC	Information Disclosure Statement considered			0
53	07/06/2009		IDSC	Information Disclosure Statement considered			0
52	07/06/2009		RCAP	Reference capture on IDS			0
51	07/06/2009		M844	Information Disclosure Statement (IDS) Filed			0
50	07/06/2009		C614	New or Additional Drawing Filed			0
48	07/06/2009		A...	Response after Non-Final Action			0
47	07/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
46	07/06/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
54	04/22/2009		IDSC	Information Disclosure Statement considered			0
45	04/22/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
44	04/07/2009		MCTNF	Mail Non-Final Rejection			0
43	04/07/2009		CTNF	Non-Final Rejection			0
42	01/30/2009		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
41	01/29/2009		FWDX	Date Forwarded to Examiner			0
40	01/15/2009		A...	Amendment after Final Rejection			0
39	01/15/2009		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
38	12/23/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
37	12/06/2008		CTFR	Final Rejection			0
52	09/26/2008		FWDX	Date Forwarded to Examiner			0
35	09/17/2008		IDSC	Information Disclosure Statement considered			0
33	09/17/2008	09/02/2008	EIDS	Electronic Information Disclosure Statement		15	31
30	09/17/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
31	09/09/2008		A...	Response after Non-Final Action			0
29	08/19/2008		DOCK	Case Docketed to Examiner in GAU			0
26	07/24/2008		MEXIN	Mail Examiner Interview Summary (PTOL - 413)			0
25	07/16/2008		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
36	06/17/2008		IDSC	Information Disclosure Statement considered			0
28	06/17/2008		RCAP	Reference capture on IDS			0
27	06/17/2008		M844	Information Disclosure Statement (IDS) Filed			0
24	06/17/2008		WIDS	Information Disclosure Statement (IDS) Filed			0
23	06/11/2008	07/19/2007	MCTNF	Mail Non-Final Rejection	328		1
22	06/09/2008		CTNF	Non-Final Rejection			0
17	01/28/2008		DOCK	Case Docketed to Examiner in GAU			0
16	08/06/2007		ALPE	Preliminary Amendment			0
15	08/06/2007		C614	New or Additional Drawing Filed			0
18	05/24/2007		IDSC	Information Disclosure Statement considered			0
14	05/24/2007		RCAP	Reference capture on IDS			0
13	05/24/2007		M844	Information Disclosure Statement (IDS) Filed			0
11	05/24/2007		WIDS	Information Disclosure Statement (IDS) Filed			0
10	03/05/2007		DOCK	Case Docketed to Examiner in GAU			0
9	08/28/2006		YSSCOMP	IPW TSS Processing by Tech Center Complete			0
8	08/11/2006		OIPE	Application Dispatched from OIPE			0
7	08/11/2006		COMP	Application Is Now Complete			0
6	07/03/2006		ADDFEE	Additional Application Filing Fees			0
5	07/03/2006		OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applicant			0
4	06/01/2006		INCD	Notice Mailed--Application Incomplete--Filing Date Assigned			0
3	05/26/2006		L194	Cleared by OIPE CSR			0
2	05/20/2006		SCAN	IPW Scan & PACR Auto Security Review			0
1	05/19/2006		IOEX	Initial Exam Team nn			0

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OLIFF & BERRIDGE PLC
PO BOX 320850
ALEXANDRIA VA 22320-4850

MAILED
JUN 21 2011
OFFICE OF PETITIONS

In re Patent No. 7,652,656	:	
Issue Date: January 26, 2010	:	
Application No. 11/419,434	:	DECISION ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. 125537	:	

This is a decision on the "REQUEST FOR CERTIFICATE OF CORRECTION",
filed April 4, 2011.

The petition is **DISMISSED**.

An application may issue in the name of an assignee rather than the applicant if requested prior to issuance of a patent.¹ However, in the event the request is not made prior to issuance, a Certificate of Correction under 37 CFR 1.323 may be requested. A request for a Certificate of Correction under 37 CFR 1.323 to correct the assignee's name will not be granted unless a petition under 37 CFR 3.81(b) is granted. Such request under 37 CFR 3.81(b) should include:

(A) the processing fee required by 37 CFR 1.17(i);

(B) a request for issuance of the application in the name of the assignee, or a request that a patent be corrected to state the name of the assignee;

¹ See 37 CFR 3.81.

(C) a statement that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent; and

(D) a request for a certificate of correction under 37 CFR 1.323 accompanied by the fee set forth in 37 CFR 1.20(a).²

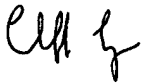
Petitioner has not met requirement (C) above.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petitions
 Commissioner for Patents
 P.O. Box 1450
 Alexandria VA 22313-1450

By FAX: (571)273-8300
 Attn: Office of Petitions

Telephone inquiries related to this decision should be directed to the undersigned at (571)272-3207.



Cliff Congo
Petitions Attorney
Office of Petitions

² MPEP 307.



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
Alexandria, VA 22313-1450
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HEIMLICH LAW
5952 DIAL WAY
SAN JOSE CA 95129

MAILED

AUG 09 2011

OFFICE OF PETITIONS

In re Application of
McCrea, et al.
Application No. 11/419,454
Filed/Deposited: 19 May, 2006
Attorney Docket No. IDT-P1855C

:
:
: **DECISION**
:
:

This is a decision on the papers filed on 28 June, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

NOTE:

Along with the objections (including double patenting) as set forth in the final Office action of 2 September, 2010, the Examiner required a Terminal Disclaimer. (Petitioner's prior TD was rejected because the authority to sign was not present.)

In response, Petitioner filed copies of powers of attorney signed on 27 January, 2004.

However, the powers of attorney clearly refer to Attorney Docket No. 100303P1855—i.e., Application No. 10/765,370 (the '370 application)—the parent of the instant application.

If one views the data for the '370 application it is clear that there was an assignment filed in January 2004.

Thus, it does not appear that the power of attorney submitted is in fact proper support for Petitioner's action and/or reply.

The petition pursuant to 37 C.F.R. §1.137(b) is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. §1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. §1.137(b)."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioner does not appear to have satisfied the requirements under the Rule.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 2 September, 2010, with reply due absent an extension of time on or before 2 December, 2010.

The application went abandoned by operation of law after midnight 2 December, 2010.

The Office mailed the Notice of Abandonment on 30 March, 2011.

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, but no proper reply—the record reveals:

- Along with the objections (including double patenting) as set forth in the final Office action of 2 September, 2010, the Examiner required a Terminal Disclaimer. (Petitioner's prior TD was rejected because the authority to sign was not present.)
- In response, Petitioner filed copies of powers of attorney signed on 27 January, 2004.
- However, the powers of attorney clearly refer to Attorney Docket No. 100303P1855—i.e., Application No. 10/765,370 (the '370 application)—the parent of the instant application.
- If one views the data for the '370 application it is clear that there was an assignment filed in January 2004.

- Thus, it does not appear that the power of attorney submitted is in fact proper support for Petitioner's action and/or reply.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

Petitioner has failed to satisfy the requirements under the Rule and discussed above.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).² The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.³))

Again, Petitioner's attentions are directed to the guidance in the Commentary at MPEP §711.03(c).

¹ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See *Changes to Patent Practice and Procedure*, 62 *Fed. Reg.* at 53160 and 53178, 1203 *Off. Gaz. Pat. Office* at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

² 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

³ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

Application No. 11/419,454

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioner failed to satisfy the requirements under the Rule:

CONCLUSION

Accordingly, the petition under 37 C.F.R. §1.137(b) is **dismissed**.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

Application No. 11/419,454

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁴) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).

/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁴ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



UNITED STATES PATENT AND TRADEMARK OFFICE

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HEIMLICH LAW
5952 DIAL WAY
SAN JOSE CA 95129

MAILED

SEP 30 2011

OFFICE OF PETITIONS

In re Application of :
McCrea, et al. :
Application No. 11/419,454 : **DECISION**
Filed/Deposited: 19 May, 2006 :
Attorney Docket No. IDT-P1855C :

This is a decision on the papers filed on 19 August, 2011, for revival of an application abandoned due to unintentional delay pursuant to 37 C.F.R. §1.137(b).

The petition pursuant to 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the final Office action mailed on 2 September, 2010, with reply due absent an extension of time on or before 2 December, 2010.

The application went abandoned by operation of law after midnight 2 December, 2010.

The Office mailed the Notice of Abandonment on 30 March, 2011.

Application No. 11/419,454

On 28 June, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, and a statement of unintentional delay, but no proper reply—the record reveals:

- Along with the objections (including double patenting) as set forth in the final Office action of 2 September, 2010, the Examiner required a Terminal Disclaimer. (Petitioner's prior TD was rejected because the authority to sign was not present.)
- In response, Petitioner filed copies of powers of attorney signed on 27 January, 2004.
- However, the powers of attorney clearly refer to Attorney Docket No. 100303P1855—i.e., Application No. 10/765,370 (the '370 application)—the parent of the instant application.
- If one views the data for the '370 application it is clear that there was an assignment filed in January 2004.
- Thus, it did not appear that the power of attorney submitted is in fact proper support for Petitioner's action and/or reply.

The petition was dismissed on 9 August, 2011.

On 19 August, 2011, Petitioner re-advanced the petition and provided the previously missing reply in the form of a properly authorized Terminal Disclaimer for consideration of the Technology Center/AU.

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c) as to the showing regarding unintentional delay and a petition pursuant to 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

¹ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See *Changes to Patent Practice and Procedure*, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §11.18, formerly §10.18, to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994). And the regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application.^{2,3}

Moreover, the Office has set forth in the Commentary at MPEP §711.03(c)(I) the showing and timeliness requirements for a proper showing for relief under 37 C.F.R. §1.181 in these matters.

Decisions on reviving abandoned applications on the basis of "unavoidable" delay have adopted the reasonably prudent person standard in determining if the delay was unavoidable:

The word 'unavoidable' . . . is applicable to ordinary human affairs, and requires no more or greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business. It permits them in the exercise of this care to rely upon the ordinary and trustworthy agencies of mail and telegraph, worthy and reliable employees, and such other means and instrumentalities as are usually employed in such important business. If unexpectedly, or through the unforeseen fault or imperfection of these agencies and instrumentalities, there occurs a failure, it may properly be said to be unavoidable, all other conditions of promptness in its rectification being present.⁴

² See: Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. at 53158-59 (October 10, 1997), 1203 Off. Gaz. Pat. Office at 86-87 (October 21, 1997).

³ The language of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) is clear, unambiguous, and without qualification: the delay in tendering the reply to the outstanding Office action, as well as filing the first petition seeking revival, must have been unavoidable for the reply now to be accepted on petition. (Therefore, by example, an unavoidable delay in the payment of the Filing Fee might occur if a reply is shipped by the US Postal Service, but due to catastrophic accident, the delivery is not made.) Delays in responding properly raise the question whether delays are unavoidable. Where there is a question whether the delay was unavoidable, Petitioners must meet the burden of establishing that the delay was unavoidable within the meaning of 35 U.S.C. §133 and 37 C.F.R. §1.137(a) And the Petitioner must be diligent in attending to the matter. Failure to do so does not constitute the care required under Pratt, and so cannot satisfy the test for diligence and due care. (By contrast, unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.)

⁴ In re Mattullath, 38 App. D.C. 497, 514-15 (1912)(quoting Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (1887)); see also Winkler v. Ladd, 221 F. Supp. 550, 552, 138 USPQ 666, 167-68 (D.D.C. 1963), aff'd, 143 USPQ 172 (D.C. Cir. 1963); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (1913). In addition, decisions on revival are made on a "case-by-case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). Finally, a petition cannot be granted where a petitioner has failed to meet his or her burden of establishing that the delay was "unavoidable." Haines v. Quigg, 673 F. Supp. 314, 316-17, 5 USPQ2d 1130, 1131-32 (N.D. Ind. 1987).

Application No. 11/419,454

As to Allegations of
Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

It appears that the requirements under the rule have been satisfied.

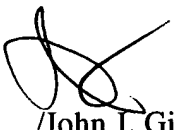
CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 2877 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁵) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).


/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁵ The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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REED SMITH LLP
101 SECOND STREET
SUITE 1800
SAN FRANCISCO CA 94105

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Application of	:	
DURSKI, Kristopher	:	
Application No. 11/419,474	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. 360367.00200	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 27, 2011.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

Therefore, as there is currently no statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request for Withdrawal.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.



Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KDH SYSTEMS, INC.
3020 EL CERRITO PLAZA, #364
EL CERRITO, CA 94530**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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**REED SMITH LLP
101 SECOND STREET
SUITE 1800
SAN FRANCISCO CA 94105**

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Application of	:	
DURSKI, Kristopher	:	
Application No. 11/419,474	:	DECISION ON PETITION
Filed: May 19, 2006	:	TO WITHDRAW
Attorney Docket No. 360367.00200	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed July 22, 2011.

The request is **NOT APPROVED**.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

Therefore, as there is currently no statement under 37 CFR 3.73(b) of record in the instant application, the Office cannot change the correspondence address to the address on the Request for Withdrawal.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.

A handwritten signature in black ink, appearing to read "Michelle R. Eason".

Michelle R. Eason
Paralegal Specialist
Office of Petitions

cc: **KDH SYSTEMS, INC.
3020 EL CERRITO PLAZA, #364
EL CERRITO, CA 94530**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MAILED

JUN 13 2011

OFFICE OF PETITIONS

ANOVA LAW GROUP PLLC
8230 BOONE BLVD SUITE 347
VIENNA VA 22182

In re Application of :
Yi Li :
Application No. 11/419,498 : DECISION ON PETITION
Filed: May 23, 2006 :
Attorney Docket No. 00135.0001.00US:

This is a decision on the petition under 37 CFR 1.53, filed April 14, 2011, to accord the above-identified application a filing date of May 23, 2006.

The petition is **GRANTED**.

Application papers in the above-identified application were deposited on May 21, 2006. However, the papers lacked drawings and an oath or declaration. Two days later, on May 23, 2006, applicant filed a copy of a Chinese application to which priority was claimed in a declaration also filed on May 23, 2006. The Chinese application contained drawings. Despite this, on August 24, 2006, the Initial Patent Examination Division mailed Applicant a "Notice of Incomplete Nonprovisional Application", requiring drawings and an oath or declaration. The Notice set an extendable period for response of two months. The Office mailed a Notice of Termination of Proceedings on December 1, 2006. The Notice was later withdrawn in a notice mailed on April 1, 2008.

It is obvious from reviewing the record that the application is entitled to a filing date as of the date drawings were filed in the application, or May 23, 2006.

Given the basis for granting this petition, the \$130 petition fee has been refunded to Deposit Account No. 50-5213.

The application is being forwarded to the Office of Patent Application Processing for further processing with a filing date of May 23, 2006, the date the Chinese language drawings were filed in the Office, and using the replacement drawings filed October 9, 2007.

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3207.

A handwritten signature in black ink, appearing to read 'Cliff Congo', with a stylized flourish at the end.

Cliff Congo
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

WRB-IP LLP
801 N. PITT STREET
SUITE 123
ALEXANDRIA VA 22314

MAILED

JUN 30 2011

OFFICE OF PETITIONS

In re Application of :
Johan Engstrom et al :
Application No. 11/419,511 : DECISION GRANTING PETITION
Filed: May 22, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 000009-044 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed June 28, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 13, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2612 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



UNITED STATES DEPARTMENT OF COMMERCE
Patent and Trademark Office
ASSISTANT SECRETARY OF COMMERCE AND
COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, VA 22313-1450

February 16, 2012

Patent No.: 7,844,963 B2
Applicant : Brad Pitzel, et al.
Issued : November 30, 2010
For : **SYSTEM AND METHOD FOR UPDATING INFORMATION VIA A
NETWORK**
Atty Docket No.: **REAL-2006007 (RN17C1)**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rules 1.323.

Respecting the alleged error in adding the third inventor name., The request for certificate of correction should be filed as a petition to correct inventorship under C.F.R. 1.324.

A petition under C.F.R. 1.324 should include:

- A. the processing fee set forth in 37 CFR 1.20(b) (currently \$130);
- B. a statement from each person being added as an inventor that the inventorship occurred without any deceptive intention on his or her part, a statement from the current inventors agreeing to the change of inventorship of stating that they have no disagreement in regard to the requested change, and a statement from all assignees of the current inventors agreeing to the change of inventorship in the patent.

In view of the foregoing, your request in this matter is hereby denied.

Further correspondence concerning this matter should be filed and directed to Supervisory Patent Examiner of Technology Center 2192, Tuan Q. Dam, at the U.S. Patent and Trademark Office.

Antonio Johnson
For Mary F. Diggs
Decisions & Certificates
of Correction Branch
(571)272-0483

AEON Law / Real Networks
1218 3rd Avenue, 21st Floor
Seattle WA 98101



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF MIKIO ISHIMARU
333 W. EL CAMINO REAL
SUITE 330
SUNNYVALE CA 94087

MAILED
NOV 18 2010
OFFICE OF PETITIONS

In re Application of :
Masao Taguchi :
Application No. 11/419705 :
Filing or 371(c) Date: 05/22/2006 : **ON PETITION**
Attorney Docket Number: :
AF02071 :

This is a decision on the renewed petition under 37 CFR 1.137(b), filed July 6, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of January 13, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Accordingly, the date of abandonment of this application is April 14, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee (and the submission required by 37 CFR 1.114, filed January 22, 2010); (2) the petition fee; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

This application is being referred to Technology Center AU 2824 for processing of the RCE and for appropriate action on the amendment by the Examiner in the normal course of business.

/DLW/

Derek L. Woods
Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

PATENTBEST
4600 ADELINE ST., #101
EMERYVILLE, CA 94608

MAILED

MAR 21 2011

OFFICE OF PETITIONS

In re Patent of Bennett	:	
Patent No. 7,203,646	:	
Issue Date: April 10, 2007	:	Letter
Application No. 11/419,736	:	
Filing Date: May 22, 2006	:	
Attorney Docket No. PHO99003C	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c) filed November 24, 2010.

The deficiency payment of \$490 is hereby accepted.

The change of status to large entity has been entered and made of record.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 03/07/12

Patent No. : 7920588 B2
Patent Issued : **April 5, 2011**
Docket No. : ECSI 33-1

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 02/15/12; please see attachments.

"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby denied.

A handwritten signature in cursive script, reading "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703)756-1580

HAYES SOLOWAY P.C.
4640 E. Skyline Drive
TUCSON AZ 85718

LMN

11/419,742

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120227

DATE : February 28, 2012

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction on Patent No.: 7,920,588

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☒ **Denied**

State the reasons for denial below.

Comments:

The relate US applications 11/614,875 and 11/463,860 are not shown in the application 11/419,742.

/KWANG B YAO/
Supervisory Patent Examiner, Art Unit 2473

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENTEES: Fanson
PATENT NO: 7,920,588
ISSUED: April 5, 2011
FOR: DATA COMMUNICATIONS SYSTEM AND METHOD OF
DATA TRANSMISSION
GROUP: 2473
EXAMINER: Hanh N. Nguyen DOCKET: ECSI 33-1

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

DO NOT ENTER: /H.N./

3/7/12

PETITION FOR CERTIFICATE OF CORRECTION

Dear Sirs:

Mr. Fanson, the Patentee of the above-identified patent, through his attorney, hereby petitions for issuance of a Certificate of Correction in the above identified patent. A Certificate of Correction is enclosed. The Certificate of Correction is required to correct a significant printing error occurring by omission of information in Section (56) as follows:

Official Actions received in related US Application Serial Nos. 11/614,875 and 11/463,860 should be included in Section (56).

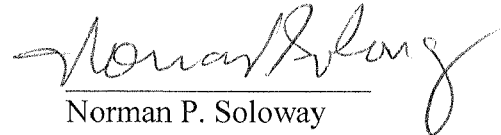
Since the errors were a Patent Office error, it is believed that the Certificate of Correction should be issued without charge to the Applicant.

HAYES SOLOWAY P.C.
4640 E. SKYLINE DRIVE
TUCSON, AZ 85718
TEL. 520.882.7623
FAX. 520.882.7643

175 CANAL STREET
MANCHESTER, NH 03101
TEL. 603.668.1400
FAX. 603.668.8567

Patent No. 7,920,588
Docket No. ECSI 33-1
Petition for Correction

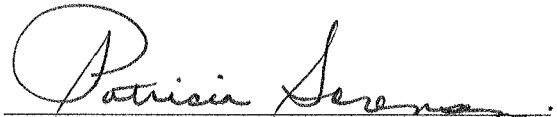
Respectfully submitted,



Norman P. Soloway
Attorney for Patentees
Reg. No. 24,315

CERTIFICATE OF ELECTRONIC FILING

I hereby certify that this correspondence is being transmitted with the United States Patent and Trademark Office (USPTO) electronic filing system (EFS-WEB) to the USPTO on February 15, 2012 at Tucson, Arizona.

By: 

NPS:pt:ps

HAYES SOLOWAY P.C.
4640 E. SKYLINE DRIVE
TUCSON, AZ 85718
TEL: 520.882.7623
FAX: 520.882.7643

175 CANAL STREET
MANCHESTER, NH 03101
TEL. 603.668.1400
FAX. 603.668.8567

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

Page _____ of _____

PATENT NO. : 7,920,588

APPLICATION NO.: 11/419,742

ISSUE DATE : April 5, 2011

INVENTOR(S) : Fanson

It is certified that an error appears or errors appear in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In Section (56) add:

Official Actions received in related US Application Serial Nos. 11/614,875 and 11/463,860 should be included in the Other Publications.

MAILING ADDRESS OF SENDER (Please do not use customer number below):

Norman P. Soloway
HAYES SOLOWAY P.C.
4640 E. Skyline Drive, Tucson, AZ 85718

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: **Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120227

DATE : February 28, 2012

TO SPE OF : ART UNIT 2473

SUBJECT : Request for Certificate of Correction on Patent No.: 7,920,588

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☒ **Denied**

State the reasons for denial below.

Comments:

The relate US applications 11/614,875 and 11/463,860 are not shown in the application 11/419,742.

/KWANG B YAO/
Supervisory Patent Examiner, Art Unit 2473

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-39816	Patent Number: 7,667,519
Filing Date (or 371(b) or (f) Date): 05-23-2006	Issue Date: 02/23/2010
First Named Inventor: Mark Welty	
Title: BIASING CIRCUIT FOR PASS TRANSISTOR FOR VOLTAGE LEVEL TRANSLATOR CIRCUIT	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080
Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 1.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.	
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.	

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/19/2010

Applicant	: Mark Welty	: DECISION ON REQUEST FOR
Patent Number	: 7667519	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/419,831	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **390** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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BUCKLEY, MASCHOFF & TALWALKAR LLC
50 LOCUST AVENUE
NEW CANAAN CT 06840

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
Kentaro Nakamura, et al. :
Application No. 11/420,147 :
Filed: May 24, 2006 :
Attorney Docket No. JG-YM-4988C- :
5/500562.2010 :

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 18, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 14, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 15, 2010. The Notice of Abandonment was mailed July 29, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing application No. 12/835,832.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,110 extension of time fee submitted with the petition on October 18, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/420,174	05/24/2006	Rafael Gutierrez	001002 P0003	1572
<div>77093 7590 11/30/2011</div> <div>Bishop & Diehl, Ltd. 1750 East Golf Road Suite 390 Schaumburg, IL 60173</div>				
			EXAMINER	
			BATSON, VICTOR D	
			ART UNIT	PAPER NUMBER
			3677	
			MAIL DATE	DELIVERY MODE
			11/30/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

NOV 30 2011

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.

Bishop & Diehl, Ltd.
1750 East Golf Road
Suite 390
Schaumburg, IL 60173

In re Application of:
GUTIERREZ, Rafael
Application No. 11/420,174
Filed: May 24, 2006
For: GEMSTONE SETTING ARRANGEMENT
AND METHOD FOR SETTING A GEMSTONE

**DECISION ON PETITION
UNDER 37 CFR 1.181**

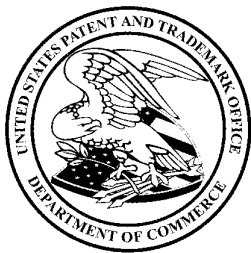
This is a decision in response to the petition under 37 CFR 1.181, received June 15, 2009, requesting reconsideration of the Notification to Non-Compliant Appeal Brief.

A review of the prosecution history shows that on November 16, 2009 a miscellaneous communication was mailed to the Applicant indicating that "said notification has been rescinded by the examiner." Accordingly, the petition is **DISMISSED as MOOT**.

Inquiries regarding this communication should be directed to Teri P. Luu, Quality Assurance Specialist, at (571) 272-7045

David Talbott, Director
Technology Center 3600
(571) 272-5150

DT/tl: 11/23/11



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 1, 2011

In re Application of :

DECISION ON REQUEST TO WITHDRAW AS

Arthur Kulakow

ATTORNEY/AGENT OF RECORD

Application No : 11420191

Filed : 24-May-2006

Attorney Docket No : 4001-0006

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed December 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 86636 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11420191	
Filing Date	24-May-2006	
First Named Inventor	Arthur Kulakow	
Art Unit	2166	
Examiner Name	AMY NG	
Attorney Docket Number	4001-0006	
Title	Coordinated Related-Search Feedback That Assists Search Refinement	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		91944 _____
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to: The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number:		
		86636 _____
I am authorized to sign on behalf of myself and all withdrawing practitioners.		
Signature	/Brian Siritzky/	
Name	Brian Siritzky	
Registration Number	37497	



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. Box 1450
ALEXANDRIA, VA 22313-1450
www.uspto.gov

Gregory S. Smith
P.O. Box 88148
Atlanta GA 30356

MAILED

DEC 20 2010

In re Application of	:	
Lipscomb et al.	:	OFFICE OF PETITIONS
Application No. 11/420,232	:	DECISION ON PETITION
Filed: May 25, 2006	:	
Attorney Docket No. 26001.1012	:	

This is a decision on the petition under the unavoidable provisions of 37 CFR 1.137(a), filed September 17, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any further petition to revive must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(a)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

This above-identified application became abandoned for failure to timely file a proper response to a non-final Office Action, which was mailed on December 1, 2009. The non-final Office Action set a three (3) month shortened statutory period for reply. An improper terminal disclaimer was submitted on April 1, 2010. It is noted in order to make the reply submitted on April 1, 2010 a timely one month extension of time was required. In light of the general authorization the one month extension of time will be charged to deposit account 50-3479. Accordingly, this application became abandoned on April 2, 2010. A Notice of Abandonment was mailed on September 2, 2010.

Petitioner contends that the abandonment of the application was unavoidable because applicants believed that the terminal disclaimer filed was a bona fide attempt to respond to the Office action and the Office did not provide any indication otherwise. Further, petitioner contends that a terminal disclaimer was accepted by the Office in application 11/162,716, now patent 7,343,414, thus petitioner had a reasonable belief the terminal disclaimer would be accepted in the instant application as the divisional application. Petitioner also contends that since the power of attorney was not changed during the prosecution of the prior application pursuant to 37 CFR 1.63(d)(4), there was no requirement to identify a change in power of attorney or correspondence in the current application

A grantable petition under 37 CFR 1.137(a) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(l); (3) a showing to the satisfaction of the Director that the entire delay in filing the required reply from the due date for

the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unavoidable; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(d). The instant petition lacks items (1) and (3).

As to item (1), petitioner has failed to submit a newly executed terminal disclaimer. The terminal disclaimer submitted on April 1, 2010 was executed when attorney Gregory Smith did not have power of attorney. As such a new terminal disclaimer is required

As to item (3), the showing of record is not sufficient to establish to the satisfaction of the Director that the delay was unavoidable within the meaning of 37 C.F.R. § 1.137(a). The Office may revive an abandoned application if the delay in responding to the relevant outstanding office requirement is shown to the satisfaction of the Director to have been "unavoidable." See, 37 C.F.R. § 1.137(a)(3). Decisions on reviving abandoned applications have adopted the reasonably prudent person standard in determining if the delay was unavoidable. Ex parte Pratt, 1887 Dec. Comm'r Pat. 31, 32-33 (Comm'r Pat. 1887) (the term "unavoidable" is applicable to ordinary human affairs, and requires no more greater care or diligence than is generally used and observed by prudent and careful men in relation to their most important business."); In re Mattullath, 38 App. D.C. 497, 514-15 (D.C. Cir. 1912); Ex parte Henrich, 1913 Dec. Comm'r Pat. 139, 141 (Comm'r Pat. 1913). In addition, decisions on revival are made on a "case by case basis, taking all the facts and circumstances into account." Smith v. Mossinghoff, 671 F.2d 533, 538, 213 USPQ 977, 982 (D.C. Cir. 1982). A petition to revive an application as unavoidably abandoned cannot be granted where petitioner has failed to meet his or her burden of establishing the cause of the unavoidable delay. Haines v. Quigg, 673 F. Supp. 314, 5 USPQ2D 1130 (N.D. Ind. 1987).

Petitioner's argument has been considered, but it is not persuasive. A review of the record confirms that a power of attorney for the instant application was not submitted until September 17, 2010. Pursuant to 37 CFR 1.34 an attorney acting in representative capacity may not sign a terminal disclaimer. Thus, the rejection of the terminal disclaimer filed on April 1, 2010 was appropriate.

37 CFR 1.63(d)(4) addresses the scenario where an oath or declaration was originally filed in the parent application but is used in the divisional application and there has been a change in the power of attorney. This is because a declaration is frequently where the correspondence address and power of attorney are located. In the instant application the declaration submitted in the divisional did not include a power of attorney. Hence, power of attorney did not carry over to the instant application. See 201.06 (c) II.

Petitioner's argument that power of attorney just must be identified and does not state the manner the identification must be made is not well founded.

37 CFR 1.32 in pertinent part states

Power of attorney means a written document by which a principal authorizes one or more patent practitioners or joint inventors to act on his or her behalf.

37 CFR 1.32(b) states:

A power of attorney must:

- (1) Be in writing;
- (2) Name one or more representatives in compliance with (c) of this section;
- (3) Give the representative power to act on behalf of the principal; and
- (4) Be signed by the applicant for patent (§ 1.41(b)) or the assignee of the entire interest of the applicant.

Thus, the filing of a customer number on the transmittal and filing the application using the attorneys EFS account is not an authorization of power of attorney as defined in 37 CFR 1.32.

The Office cannot accept a terminal disclaimer which is not properly executed.

Finally, a delay caused by an applicant's lack of knowledge or improper application of the patent statute, rules of practice or the MPEP is not rendered "unavoidable" due to the USPTO's failure to advise the applicant of any deficiency in sufficient time to permit the applicant to take corrective action. See *In re Sivertz*, 227 USPQ 255, 256 (Comm'r Pat. 1985).

The application is properly held abandoned.

PETITION UNDER 37 CFR 1.137(b)

The petition filed under 37 CFR 1.137(b) is **dismissed**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b);". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). For the reasons discussed above the instant petition lacks item(s) 1.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: **(571) 273-8300**
Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Charlema Grant', followed by a stylized flourish.

Charlema Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SMITH FROHWEIN TEMPEL GREENLEE BLAHA, LLC
Two Ravinia Drive
Suite 700
ATLANTA GA 30346

MAILED

APR 20 2011

OFFICE OF PETITIONS

In re Application of :
Lipscomb et al. :
Application No. 11/420,232 : **DECISION ON PETITION**
Filed: May 25, 2006 :
Attorney Docket No. 26001.1012 :

This is a decision on the renewed petition filed under 37 CFR 1.137(b) in the above-identified application filed on February 15, 2011 and supplemented on April 13, 2011.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a proper response to a non-final Office Action, which was mailed on December 1, 2009. The non-final Office Action set a three (3) month shortened statutory period for reply. An improper terminal disclaimer was submitted on April 1, 2010. Accordingly, this application became abandoned on April 2, 2010. A Notice of Abandonment was mailed on September 2, 2010. Petitions filed under 37 CFR 1.137(a) and 37 CFR 1.137(b) were dismissed on December 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a terminal disclaimer, fee, and remarks (2) the petition fee of \$810.00, and (3) a statement of unintentional delay.

Any request to change the title of the application should be directed in a separate request and directed to the art unit. See 37 CFR 1.4(c).

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2451 for appropriate action by the Examiner in the normal course of business on the reply received including review of the terminal disclaimer to obviate double patenting.

Charlema Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Forest Laboratories, Inc.
Attn: Charles S. Ryan
500 COMMACK ROAD
Commack NY 11725

MAILED

SEP 28 2010

In re Application of
Campbell et al.
Application No. 11/420,273
Filed: May 25, 2006
Attorney Docket No. 024.5US1
Title: COMPOUNDS AND METHODS
FOR SELECTIVE INHIBITION OF
DIPEPTIDYL PEPTIDASE-IV

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OFFICE OF PETITIONS

ON APPLICATION FOR
PATENT TERM ADJUSTMENT

This is in response to the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)" filed April 26, 2010. Applicants submit that the correct patent term adjustment to be indicated on the patent is one thousand ten (1,010) days, not five hundred sixty-eight (568) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.


Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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AT&T CORP.
ROOM 2A207
ONE AT&T WAY
BEDMINSTER NJ 07921

MAILED

AUG 18 2010

OFFICE OF PETITIONS

In re Application of :
Jenny Deason Copeland :
Application No. 11/420,298 : **DECISION ON PETITION**
Filed: May 25, 2006 :
Attorney Docket No. C06-0021-000 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 14, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, October 24, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 25, 2008. The Notice of Abandonment was mailed July 8, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a n amendment, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Since the \$1,110 extension of time fee submitted with the petition on July 14, 2010 was subsequent to the maximum extendable period for reply, petitioner may request a refund of this fee by writing to the following address: Mail Stop 16, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450. A copy of this decision should accompany petitioner's request.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being

mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business on the reply received.

A handwritten signature in cursive script that reads "Terri Johnson".

Terri Johnson
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/22/11

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No.: 11420525 Patent No.: 7445976

CofC mailroom date: 07/14/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Director's SPE response to 571-273-3421

Note: _____

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Matthew Landau/ 2813
7/26/11

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/26/2011
 TO SPE OF : ART UNIT 2612
 SUBJECT : Request for Certificate of Correction for Appl. No.: 11/420561 Patent No.: 7924174 B1
 CofC mailroom date: 5/19/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
 Randolph Square – 9D10-A
 Palm Location 7580**

Note: _____

Virginia Tolbert

**Certificates of Correction Branch
 (571) 272-0460**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: OK to enter

**DANIEL WU
 SUPERVISORY PATENT EXAMINER
 SPE**

2612
Art Unit

**UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION**

PATENT NO.:

Page 1 of 1

DATED:

INVENTOR(S):

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/26/2011

TO SPE OF : ART UNIT 2612

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/420561 Patent No.: 7924174 B1

CofC mailroom date: 5/19/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: APPROVED: /B.L./

/Benjamin Lee/
SPE

2612
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20110406-A

DATE : April 06, 2011

TO SPE OF : ART UNIT 1759

SUBJECT : Request for Certificate of Correction on Patent No.: 7754093 B2

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

Correction of minor informalities

/JEFFREY T BARTON/
Supervisory Patent Examiner.Art Unit 1759



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/420,650	05/26/2006	James C. Mansfield	1074-094-PWH	1374
60597	7590	08/05/2010		
HANCOCK HUGHEY LLP				
P.O. BOX 6553				
PORTLAND, OR 97228				
EXAMINER				
THOMPSON, TIMOTHY J				
ART UNIT		PAPER NUMBER		
2873				
MAIL DATE		DELIVERY MODE		
08/05/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HANCOCK HUGHEY LLP
P.O. BOX 6553
PORTLAND OR 97228

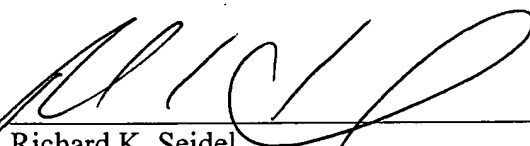
In re Application of
JAMES C. MANSFIELD
Serial No.: 11/420650
Filed: May 26, 2006
For: SUPPORT FOR VIBRATING
OPTICAL ASSEMBLY

DECISION ON PETITION
UNDER 37 CFR 1.144

This is in response to applicant's Petition under 37 CFR 1.144, filed February 16, 2010, to withdraw the restriction requirement of the Office action of September 17, 2009.

The Petition is **Granted** for the reasons as stated in the February 16, 2010 Petition. This application is being forwarded to the examiner for appropriate action consistent with this decision.

Any question regarding this communication should be directed to Ricky Mack, Supervisory Patent Examiner, at (571) 272-2333.


Richard K. Seidel
Director, Technology Center 2800



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED
APR 19 2011
OFFICE OF PETITIONS

In re Application of	:
KUO et al.	:
Application No. 11/420,687	: DECISION ON PETITION
Filed: May 26, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 5399-3	:

This is a decision on the petition under 37 CFR 1.78(a)(3), filed March 31, 2011 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed with the petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not satisfy items (1) and (3) above.

In regards to item (1), the reference to add the above-noted, prior-filed applications in the specification on page one is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is

included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. When a benefit claim under 35 U.S.C. § 120 is submitted after the filing of an application, the reference to the prior application cannot include an incorporation by reference statement of the prior application. *See Dart Industries v. Banner*, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980). *Note* MPEP §§ 201.06(c) and 608.04(b).

In regards to item (3), the statement of delay is not acceptable. Petitioner's attention is directed to 37 CFR 1.33(b), which states:

- (b) Amendments and other papers. Amendments and other papers, except for written assertions pursuant to § 1.27(c)(2)(ii) of this part, filed in the application must be signed by:
 - (1) A registered patent attorney or patent agent of record appointed in compliance with § 1.32(b);
 - (2) A registered patent attorney or patent agent not of record who acts in a representative capacity under the provisions of § 1.34;
 - (3) An assignee as provided for under § 3.71(b) of this chapter; or
 - (4) All of the applicants (§ 1.41(b)) for patent, unless there is an assignee of the entire interest and such assignee has taken action in the application in accordance with § 3.71 of this chapter.

An unsigned amendment (or other paper) or one not properly signed by a person having authority to prosecute the application is not entered. This applies, for instance, where the amendment (or other paper) is signed by only one of two applicants and the other applicant has not given the one signing a power of attorney.

Therefore, as the statement of delay is not signed by all the inventors and the record herein fails to disclose that inventor Renny Tse-Haw Ling was ever given a power of attorney to act on behalf of inventor Yung-Li Kuo, or that inventor Renny Tse-Haw Ling is an assignee of the entire interest and has complied with the provisions of 37 CFR 3.73(b), the petition is considered to not contain a proper statement of unintentional delay.

If reconsideration of this decision is desired, a renewed petition under 37 CFR § 1.78(a)(3) and an Application Data Sheet or an amendment (complying with the provisions of 37 CFR 1.121 and 37 CFR 1.76(b)(5)) to correct the above matters are required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Jose' G Dees at (571) 272-1569.



Christopher Bottorff
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450

SHERIDAN ROSS PC
1560 BROADWAY
SUITE 1200
DENVER CO 80202

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Application of
KUO et al.
Application No. 11/420,687
Filed: May 26, 2006
Attorney Docket No. 5399-3

:
:
: DECISION DISMISSING PETITION
: UNDER 37 CFR 1.78(a)(3)
: AND 37 CFR 1.55(c)
:

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed May 2, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to prior-filed nonprovisional application, and under 35 U.S.C. § 119(a)-(d) for the benefit of priority to a prior-filed foreign application, as set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The petition does not comply with item (1).

The amendment filed May 2, 2011 claims priority to prior-filed nonprovisional application serial no. 11/040,237 and foreign Taiwanese Application Serial No. 93115070. However, the examiner has indicated that the proposed amendment would not be entered. Therefore, since the amendment does not *prima facie* place the application in condition for allowance, petitioner must now submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this decision must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, **and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6))**;
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.


The petition fails to comply with item (5) above.

In regards to item (5), examiner has indicated that the proposed amendment would not be entered and therefore the nonprovisional application 11/040,237 that claims benefit to foreign Taiwanese Application Serial No. 93115070 can not be entered at this time.

In view of the above, if petitioner desires to claim priority to the foreign application noted in the petition, petitioner must now submit a request for continued examination (RCE) under the provisions of 37 CFR 1.114, or file a continuing application pursuant to the provisions of 37 CFR 1.114, or file a continuing application pursuant to the provisions of 37 CFR 1.53(b).

Any request for reconsideration of this decision must be accompanied by a cover letter entitled "Renewed Petition under 37 CFR 1.78(a)(3)" and must include the appropriate reply to continue prosecution of the instant application.

Any inquiries concerning this decision may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.



David Bucci
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action
After the Filing of an Appeal Brief

Application No.

11/420,687

Applicant(s)

KUO ET AL.

Examiner

CHRISTOPHER BOSWELL

Art Unit

3673

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

The reply filed 02 May 2011 is acknowledged.

1. ☒ The reply filed on or after the date of filing of an appeal brief, but prior to a final decision by the Board of Patent Appeals and Interferences, will not be entered because:
- a. ☒ The amendment is not limited to canceling claims (where the cancellation does not affect the scope of any other pending claims) or rewriting dependent claims into independent form (no limitation of a dependent claim can be excluded in rewriting that claim). See 37 CFR 41.33(b) and (c).
- b. ☐ The affidavit or other evidence is not timely filed before the filing of an appeal brief.
See 37 CFR 41.33(d)(2).
2. ☐ The reply is not entered because it was not filed within the two month time period set forth in 37 CFR 41.39(b), 41.50(a)(2), or 41.50(b) (whichever is appropriate). Extensions of time under 37 CFR 1.136(a) are not available.

Note: This paragraph is for a reply filed in response to one of the following: (a) an examiner's answer that includes a new ground of rejection (37 CFR 41.39(a)(2)); (b) a supplemental examiner's answer written in response to a remand by the Board of Patent Appeals and Interferences for further consideration of rejection (37 CFR 41.50(a)(2)); or (c) a Board of Patent Appeals and Interferences decision that includes a new ground of rejection (37 CFR 41.50(b)).

3. ☐ The reply is entered. An explanation of the status of the claims after entry is below or attached.
4. ☒ Other: The amendment raises new issues, as the amendment changes the priority date and thus would requires further consideration and search

/PETER M CUOMO/
Supervisory Patent Examiner, Art Unit 3673

Christopher Boswell
Examiner
Art Unit: 3673



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GLAXO SMITH KLINE
C/O THE NATH LAW GROUP
112 SOUTH WEST ST.
ALEXANDRIA, VA 22314-2825

MAILED

NOV 26 2010

OFFICE OF PETITIONS

In re Application of
Richard Buchta et al
Application No. 11/420,700
Filed: May 26, 2006
Attorney Docket No. C7980Y3

ON PETITION

This is a decision on the petition, filed November 24, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on October 15, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1616 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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P.O. Box 1450
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LAW OFFICE OF JONATHAN T. KAPLAN
700 SE 160TH AVE STE 107-1220
VANCOUVER WA 98684

MAILED

MAY 27 2011

OFFICE OF PETITIONS

In re Application of :
REHLING, et al :
Application No. 11/420,782 : **DECISION ON PETITION**
Filed: May 29, 2006 :
Attorney Docket No. NETBASE.0001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed April 8, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue fee on or before April 5, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed January 5, 2011, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on April 6, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$755; (2) the petition fee of \$810; and (3) a statement of unintentional delay.

As authorized, the issue fee of \$755 will be charged to Deposit Account No. 50-2584.

The submission of the Request for Continued Examination (RCE) and IDS is acknowledged and will be processed by the Technology Center.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

All other telephone inquiries should be directed to the Technology Center at (571) 272-2100.

The application is being referred to Technology Center AU 2163 for processing of the RCE within the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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LAW OFFICES OF JONATHAN T. KAPLAN
700 SE 160TH AVE. STE 107-1220
VANCOUVER WA 98684

MAILED
JUN 28 2011
OFFICE OF PETITIONS

In re Application of :
John Andrew Rehling et al :
Application No. 11/420,782 : **DECISION ON REQUEST FOR REFUND**
Filed: May 29, 2006 :
Attorney Docket No. NETBASE.0001 :

This is a decision on the Request For Refund filed June 22, 2011.

The request is **DISMISSED**.

Applicant files the above request for refund and states that "This letter concerns an incorrect charge, in the amount of \$755.00, for App. No. 11420782, on May 27, 2011. Because of this incorrect charge, a service fee of \$25.00 was then charged on May 31. Therefore, it is respectfully requested that both of these charges, totaling to \$780.00 be credited to the above-reference Deposit Account. ...

On May 27, a Petition to Revive the above-referenced application was Granted. ... Despite the fact that the Petition was filed on June 8, with a Request for Continued Examination (RCE), and that all fees for the Petition were paid at the time of filing, the Petition Grant states that applicant has requested payment of the Issue Fee."

However, applicant is encouraged to note the below:

The application became abandoned for failure to timely pay the issue fee. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply **must be the payment of the issue fee or any outstanding balance thereof**. See MPEP 711.03(c)(III)(A)(1). Had the Request for Continued Examination (RCE)/IDS been submitted on or prior to the due date of the issue fee, the filing of the RCE/IDS alone would be a proper response. In this instance the application was abandoned. Therefore, as authorization was provided in the transmittal letter to charge any fee deficiency, or credit any overpayment, to Deposit Account No. 502584, submitted on April 8, 2011, the required issue fee of \$755.00 was charged to petitioner's deposit account.

Applicant is advised that the issue fee payment cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

In view of the above, the request for refund is dismissed.

Any questions concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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LAW OFFICE OF JONATHAN T. KAPLAN
700 SE 160TH AVE STE 107-1220
VANCOUVER WA 98684

MAILED

SEP 21 2011

OFFICE OF PETITIONS

In re Application of
John Andrew Rehling et al.
Application No. 11/420,782
Filed: May 29, 2006
Attorney Docket Number: NetBase.0001

ON PETITION

This is a decision on the petition, filed September 15, 2011 under 37 CFR 1.137(b)¹, to revive the above identified application.

The petition is **GRANTED**.

This application became abandoned September 7, 2011 for failure to pay the issue fee in response to the Notice of Allowance mailed on June 3, 2011. The instant petition and this decision precede the mailing of the Notice of Abandonment.

In accordance with petitioner's request, the issue fee in the amount of \$755, previously paid on May 27, 2011, in response to the Notice of Allowance mailed January 5, 2011, has been applied.

All other requirements of 37 CFR 1.137(b) having now been met, this matter is being referred to the Publishing Division to be processed into a patent.

Telephone inquiries concerning this matter may be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹ Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Director may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).



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FISH & RICHARDSON P.C. (DC)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

OCT 17 2011

In re Application of : **OFFICE OF PETITIONS**
Daiki Yamada et al :
Application No. 11/420,889 : **DECISION GRANTING PETITION**
Filed: May 30, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. 12732-0356001 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed October 13, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

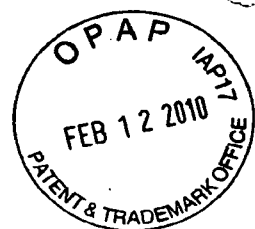
Petitioner is advised that the issue fee paid on September 23, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2891 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



RJ

Cajc

PATENT
2421-000072/US/CPA

IN THE U.S. PATENT AND TRADEMARK OFFICE

Certificate

Applicant(s): Chang-Wook JEONG et al. Patent No.: 7,606,064 FEB 17 2010
Application No.: 11/420,933 Group No.: 2824 of Correction
Filed: May 30, 2006 Examiner: Harry Byrne
Issued: October 20, 2009
Conf. No.: 1844
For: METHOD FOR REDUCING A RESET CURRENT FOR
RESETTING A PORTION OF A PHASE CHANGE MATERIAL IN
A MEOMORY CELL OF A PHASE CHANGE MEMORY DEVICE
AND THE PHASE CHANGE MEMORY DEVICE

**REQUEST FOR RECONSIDERATION OF REQUEST FOR CERTIFICATE OF
CORRECTION**

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

February 12, 2010
(February 10, 2010 = Government Closed)
(February 11, 2010 = Government Closed)

Attn: Certificate of Correction Branch

Sir:

In response to the decision issued by the U.S. Patent and Trademark Office on December 10, 2009 denying Applicants' Request for Certificate of Correction, reconsideration is requested.

Request for Certificate of Correction Filed on December 2, 2009

On December 2, 2009, Applicants filed a Request for Certificate of Correction requesting correction of two errors. These errors are as follows:

1. An error in the foreign priority data.
2. An error in the related U.S. application data.

In the first sentence of the specification, Applicants provided that "This application claims priority of U.S. Application No. 10/929,511 filed August 30,

APPROVED: /H.B./ (09/15/2010)

2004, the entire contents of which are hereby incorporated by reference in their entirety." In the second sentence of the specification, Applicants provided that "This application claims the priority of Korean Patent Application No. 2003-62546, filed on Sep. 8, 2003, in the Korean Intellectual Property Office, the contents of which are incorporated herein in their entirety by reference." The priority information is also identified in the signed Declaration that was filed on May 30, 2006. Moreover, the present application is claiming priority to KR 2003-62546 through U.S. Application No. 10/929,511.

Moreover, the certified foreign priority document was properly submitted in U.S. Application No. 10/929,511 and was acknowledged as such by the Examiner in U.S. Patent No. 7,606,064 (the present application).

Decision by Examiner

In the decision, the Examiner states:

Although it is acknowledged that the Foreign Priority was claimed in the declaration filed 5/30/06; this is an improper claim to Foreign Priority, since the time between US application no. 10/529,511 filed 8/30/04 is more than 12 months to the present application filed 5/30/06.

No correction was made.

Errors in Decision

Applicants disagree with the decision for the following reasons.

A. Related U.S. Application Data

First, the decision does not address the request to correct the error in the related U.S. application data. Instead, the Examiner merely provides a statement regarding the foreign priority. **Accordingly, Applicants request that the Patent and Trademark Office enter the related U.S. application data as indicated in the attached Form PTO/SB/44.**

B. Foreign Priority

The Examiner correctly acknowledges that the present application was filed more than twelve months after the filing of U.S. Application No. 10/529,511. However, the Examiner's understanding of claiming priority is incorrect.

35 U.S.C. § 120, which governs claiming priority to U.S. nonprovisional applications, states the following:

An application for patent for an invention disclosed in the manner provided by the first paragraph of section 112 of this title in an application previously filed in the United States, or as provided by section 363 of this title, which is filed by an inventor or inventors named in the previously filed application shall have the same effect, as to such invention, as though filed on the date of the prior application, if filed before the patenting or abandonment of or termination of proceedings on the first application or on an application similarly entitled to the benefit of the filing date of the first application and if it contains or is amended to contain a specific reference to the earlier filed application. (emphasis added).

There is no twelve month requirement to claim priority to a U.S. application. Instead, an application claiming priority to a U.S. application must be filed during the pendency of the earlier filed application.

Here, the present application was filed during the pendency of U.S. Application No. 10/529,511. Therefore, the present application properly claims priority to the '511 application.

The '511 application claims priority to KR 2003-62546. As stated in MPEP 201.13,

The conditions, for benefit of the filing date of a prior application filed in a foreign country, may be listed as follows:

(C) The application, **or its earliest parent United States application under 35 U.S.C. 120,** must have been filed within 12 months from the date of the earliest foreign filing in a "recognized" country as explained below.

As the Examiner is aware, the '511 application was filed August 30, 2004, which is within 12 months of the filing date of KR 2003-62546, which is September 8, 2003.

Since the present application properly claims priority to the '551 application and the '511 application properly claims priority to KR 2003-62546, then the present application properly claims priority to KR 2003-62546.

Therefore, Applicants respectfully request that the Patent and Trademark Office enter the foreign application priority data and related U.S. application data as indicated in the attached Form PTO/SB/44.

Pursuant to the provisions of 37 C.F.R. § 1.322, please enter the attached Certificate of Correction.

Since the error noted is believed to be the fault of the Patent and Trademark Office, we are not enclosing the \$100.00 Certificate of Correction fee. If it is found to be to the contrary, please charge our Deposit Account No. 08-0750.

In view of the foregoing, issuance of the Certificate of Correction is respectfully requested.

Respectfully submitted,

HARNESS, DICKEY & PIERCE, P.L.C.

By: 

Gary D. Yacura, Reg. No. 35,416
Blair M. Hoyt, Reg. No. 56,205

P.O. Box 8910
Reston, Virginia 20195
(703) 668-8000

GDY/BMH/mas

Enclosure: Certificate of Correction (PTO/SB/44)

APPROVED: /H.B./ (09/15/2010)

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT NO : 7,606,064

APPLICATION NO: 11/420,933

DATED : October 20, 2009

INVENTOR(S) : Chang-Wook JEONG et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

Please add:

(30) Foreign Application Priority Data: Sep. 8, 2003 (KR)2003-62546

(63) Related U.S. Application Data: Continuation-in-part of U.S. Application No. 10/929,511, filed on Aug. 30, 2004, now U.S. Patent No. 7,254,055.

MAILING ADDRESS OF SENDER: Harness, Dickey & Pierce, P.L.C.
P.O. Box 8910
Reston, VA 20195

PATENT NO. 7,606,064

No. of additional copies

This collection of information is required by 37 CFR 1.322, 1.323, and 1.324. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Attention Certificate of Corrections Branch, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

OK TO ENTER: /H.B./ (09/15/2010)

APPROVED: /H.B./ (09/15/2010)



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/420,933	05/30/2006	Chang-Wook JEONG	2421-000072/US/CPA	1844
30593	7590	09/22/2010		
HARNESS, DICKEY & PIERCE, P.L.C. P.O. BOX 8910 RESTON, VA 20195			EXAMINER BYRNE, HARRY W	
			ART UNIT	PAPER NUMBER
			2824	
			MAIL DATE	DELIVERY MODE
			09/22/2010	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20100915

DATE :

TO SPE OF : ART UNIT

SUBJECT : Request for Certificate of Correction on Patent No.:

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

After a telephonic conversation with Gary Yacura on or about 8/31/2010, Examiner did more investigation of the issue presented in the Request for Certificate of Correction. Please note that PALM does not include that 11/420933 is a Continuation in Part of the application 10/929511 filed on Aug. 30, 2004. Please correct this and the application's priority.

/Richard Elms/
Supervisory Patent Examiner, Art Unit 2824

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: 20100915

DATE : 9/20/10

TO SPE OF : ART UNIT 2824

SUBJECT : Request for Certificate of Correction on Patent No.: 7,606,064

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within 7 days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location 7590 - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

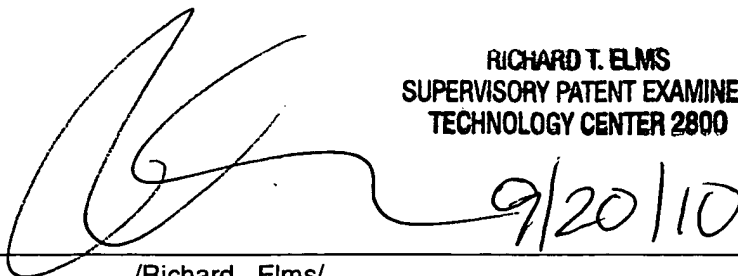
☐ **Denied**

State the reasons for denial below.

Comments:

After a telephonic conversation with Gary Yacura on or about 8/31/2010, Examiner did more investigation of the issue presented in the Request for Certificate of Correction. Please note that PALM does not include that 11/420933 is a Continuation in Part of the application 10/929511 filed on Aug. 30, 2004. Please correct this and the application's priority. HWB 9/20/10

RICHARD T. ELMS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2800



/Richard Elms/
Supervisory Patent Examiner, Art Unit 2824



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 01/19/11

Patent No. : 7709607 B2
Patent Issued : 05/04/10
Docket No. : **067461-5139-US02**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

In the title, it is the practice to exclude words such as "Improvements in", "A", "Novel", etc., from the printed patent. **"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."**

In view of the foregoing, your request in this matter is hereby denied.

A handwritten signature in cursive script, reading "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

LMN



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 01/19/11

Patent No. : 7709607 B2
Patent Issued : 05/04/10
Docket No. : **067461-5139-US02**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 11/30/10; please see attachments.

"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby denied.

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

MORGAN, LEWIS & BOCKIUS, LLP (SF)
ONE MARKET SPEAR STREET TOWER
SAN FRANCISCO CA 94105

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/17/10

TO SPE OF : ART UNIT 1656

SUBJECT : Request for Certificate of Correction for Appl. No.: 11421059 Patent No.: 7709607

CofC mailroom date:

11/30/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

For comments, please contact SPE at (571) 272-3421

Lamonte Newsome

**Certificates of Correction Branch
571-272-3421**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: The correction requested for updating the priority information lists a US provisional application (60/350411, dated 2/3/05) that is not found in the Declaration filed in the case.

/Manjunath Rao/

1656

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/15/10 Paper No.: _____
TO SPE OF : ART UNIT 1656 *col mailroom date: 11/30/10*
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/421060 Patent No.: 7749956 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert

Certificates of Correction Branch

571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: No new matter is introduced. The scope or meaning of the claims is not changed.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/15/10 Paper No.: _____
TO SPE OF : ART UNIT 1656 *col mailroom date: 11/30/10*
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/421060 Patent No.: 7749956 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert

Certificates of Correction Branch

571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

Manjunath

1656



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MANUEL F. DE LA CERRA
6885 CATAMARAN DRIVE
CARLSBAD CA 92011

MAILED
DEC 09 2011
OFFICE OF PETITIONS

In re Patent No. 7,378,734	:	
Issue Date: May 27, 2008	:	
Application No. 11/421,064	:	NOTICE
Filed: May 30, 2006	:	
Attorney Docket No. TDTECH-002	:	

This is a notice regarding your request, November 16, 2011, for acceptance of a fee deficiency submission under 37 CFR 1.28.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MCDONNELL BOEHNEN HULBERT &
BERGHOFF LLP
300 S. WACKER DRIVE
32ND FLOOR
CHICAGO IL 60606

MAILED

SEP 27 2011

OFFICE OF PETITIONS

In re Application :
Kopreski :
Application No. 11/421,260 : PATENT TERM ADJUSTMENT
Filing or 371(c) Date: May 31, 2006 :
Dkt. No.: 00-1312-V :

This is in response to the application for patent term adjustment under 37 CFR 1.705(b), filed September 22, 2011.

Applicant submits that the correct patent term adjustment to be indicated on the patent is 151 days, not 57 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction on the basis that the Office will take in excess of three years to issue this patent.

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the

USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

Receipt is hereby acknowledged of the required patent term adjustment application fee under 37 CFR 1.705(b) of \$200.00. See, 37 CFR 1.18(e).

However, any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The application file is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See, 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : August 30,2011

In re Application of :

Pieter Schouten

Application No : 11421528

Filed : 01-Jun-2006

Attorney Docket No : 502P023

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed August 30,2011 , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	
Application Number	11421528	
Filing Date	01-Jun-2006	
First Named Inventor	Pieter Schouten	
Art Unit	3751	
Examiner Name	DAVID WALCZAK	
Attorney Docket Number	502P023	
Title	BRUSH HEAD ASSEMBLY WITH A THREE-POSITION CONTROL VALVE	
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; (4) Statement that the entire delay was unintentional. 		
<p>Petition fee</p> <p>The petition fee under 37CFR 1.17(m) is attached.</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY.</p>		
<p>Issue Fee and Publication Fee :</p> <p>Issue Fee and Publication Fee must accompany ePetition.</p> <p><input checked="" type="checkbox"/> Issue Fee Transmittal is attached</p>		
<p>Drawing corrections and/ or other deficiencies.</p>		

- ☒ Drawing corrections and/ or other deficiencies are not required
- ☐ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ☐ Drawing corrections and/ or other deficiencies are attached.

☒ STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ☐ A joint inventor; all of whom are signing this e-petition.
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/George R. McGuire/
Name	George R. McGuire
Registration Number	36603



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

12-13-2010
Patent No. : 7,810,834 B2
Serial No. : 11/421,621
Inventor(s) : Stacy L. Schneider, et. al.
Issued : October 12, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged error in column 11, line 17 is printed in accordance with the record.

In view of the foregoing, your request in this matter is hereby denied.

Further correspondence concerning this matter should be filed and directed to Decisions and Certificates of Correction Branch. Any response must be filed within a four week period with the sum of \$100.00

Eva James
For Mary Diggs
Decisions & Certificate
of Correction Branch
(571-272-3422 or 703-756-1580)

Bruce R. Needaham
8 East Broadway Suite 600
Salt Lake City, UT 84111

eJ



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P.O. Box 1450
Alexandria, VA 22313-1450
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Brian M. Dingman, Esq.
Mirick, O'Connell, DeMallie & Lougee
1700 West Park Drive
Westborough MA 01581

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of
Kenneth TOMASETTI et al.
Application No. 11/421,792
Filed: June 2, 2006
Attorney Docket No.

ON PETITION


This is in response to the petition under 37 CFR 1.183, filed November 9, 2009, which is being treated as petition requesting waiver of the requirements of 37 CFR 1.131 to the extent that it requires that all of the named inventors execute the declaration filed there under.

The petition is **granted to the extent *infra***.

Petitioner asserts that, while all of the named inventors contributed to the conception of the claimed invention which is under rejection, only Kenneth Tomasetti has agreed to execute the declaration under 37 CFR 1.131 in support of establishing conception of the claimed invention prior to April 12, 2006.

As noted in MPEP 715.04, an adequate showing may lead to acceptance of a declaration under 37 CFR 1.131 executed by less than all of the named inventors of the claimed subject matter in question. Under the facts presented, it is agreed that justice requires waiver of the rules to the extent that they require David A. Hewes to declare. However, the favorable decision herein does not relieve applicants from their burden to establish that the invention was completed before the date of the reference and that the claimed invention was the product of the joint inventors. See In re Carlson, 79 F.2d. 900, 27 USPQ 400 (CCPA 1935).

Telephone inquiries regarding this decision should be directed the undersigned at (571) 272-7099.


David Bucci
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BRIAN M. DINGMAN, ESQ.
MIRICK, O'CONNELL, DEMALLIE & LOUGEE
1700 WESST PARK DRIVE
WESTBOROUGH, MA 01581

MAILED

JAN 25 2011

OFFICE OF PETITIONS

In re Application of
Kenneth Tomasetti, et al.
Application No. 11/421,792
Filed: June 2, 2006
Attorney Docket No.

:
:
:
:
:

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of September 11, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not prima facie place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b). Accordingly, the date of abandonment of this application is December 12, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3724 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

A handwritten signature in cursive script, appearing to read 'April M. Wise'.

April M. Wise
Petitions Examiner
Office of Petitions



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Commissioner for Patents
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P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED

OCT 08 2010

OFFICE OF PETITIONS

AFFYMETRIX, INC
ATTN: CHIEF IP COUNSEL, LEGAL DEPT.
3420 CENTRAL EXPRESSWAY
SANTA CLARA CA 95051

In re Application of :
William, et al. :
Application No. 11/421,941 : ON PETITION
Filed: June 2, 2006 :
Attorney Docket No. 3740.2 :

This is a decision on the petition under 37 CFR 1.137(b), filed September 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to file a timely and proper response to the final Office action mailed March 1, 2010, which set a shortened statutory period for reply of three months from its mailing date. The application became abandoned on June 2, 2010.

The Request for Continued Examination filed September 2, 2010, is noted.

The request for an extension of time within the third month is noted, but cannot be granted because the request was made outside the maximum statutory period for reply to the final Office action. The amount of \$1,110.00 will be refunded, in due course.

The application file is being forwarded to Technology Center 1600, GAU 1631 for further processing.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11421965	
Filing Date	02-Jun-2006	
First Named Inventor	Un Paik	
Art Unit	1789	
Examiner Name	PATRICIA GEORGE	
Attorney Docket Number	16003.0002	
Title	CMP SLURRY, PREPARATION METHOD THEREOF AND METHOD OF POLISHING SUBSTRATE USING THE SAME	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Seth A. Watkins/
Name	Seth A. Watkins
Registration Number	47169



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : June 21,2011

In re Application of :

Un Paik

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11421965

Filed : 02-Jun-2006

Attorney Docket No : 16003.0002

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed June 21,2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 1789 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions



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Paper No.

KILPATRICK TOWNSEND
& STOCKTON, LLP/PIXAR
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834

MAILED
JUN 01 2011
OFFICE OF PETITIONS

In re Application of : DECISION ON PETITION
Robert Cook :
Application No. 11/422,024 :
Filed: June 2, 2006 :
Atty Docket No. 88298-713054 :
(008210US) :

This is a decision on the PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed May 18, 2011.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to pay the Issue Fee and Publication Fee within three months of the mailing date, February 17, 2011, of the Notice of Allowance and Fee(s) Due. This Office action set a three-month nonextendable statutory period for reply. No reply received, the above-identified application became abandoned effective May 18, 2011. A courtesy Notice of Abandonment was mailed on May 24, 2011.

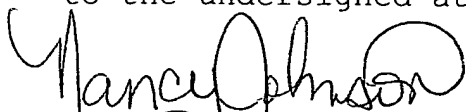
This petition includes the required reply¹ in the form of payment of the Issue Fee and Publication Fee; payment of the petition fee set forth in 37 CFR § 1.17(m); and the required statement of unintentional delay. No terminal disclaimer is required.

It is concluded that all requirements of 37 CFR 1.137(b) have been met.

¹ The Notice of Allowability did not set forth a distinct but concurrent requirement for corrected drawings.

The Office of Data Management has been advised of this decision. The application is, thereby, forwarded for processing into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in cursive script, appearing to read "Nancy Johnson".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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MARSHALL, GERSTEIN & BORUN LLP
233 SOUTH WACKER DRIVE
6300 WILLIS TOWER
CHICAGO IL 60606-6357

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Patent No. 7,756,470 :
Issue Date: July 13, 2010 :
Application No. 11/422,108 : **DECISION ON PETITION**
Filed: June 5, 2006 :
Attorney Docket No. 31298/30021 :

This is a decision on the petition, filed, August 24, 2010, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the assignee's name on the Fee(s) Transmittal form PTOL-85(b) by way of a certificate of correction in the patent to be issued from the above-identified application.

The request is **GRANTED**.

Petitioner states that the correct assignee's name is "Spotwave Wireless Ltd., Kemptville, Ontario (CA)" and that the incorrect assignee's name was included on the Fee(s) Transmittal form PTOL-85(b) at the time of payment of the issue fee. Accordingly, petitioner requests that a certificate of correction be issued to reflect the correct assignee on the front page of the Letters Patent in the patent to be issued from the application.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.

The request was accompanied by a certificate of correction (and fee) as required by 3.81(b). Further, Office assignment records reflect that "Spotwave Wireless Ltd., Kemptville, Ontario (CA)" is the assignee of record. Accordingly, as the request complies with the provisions of 37 CFR 3.81(b), it would be appropriate for a certificate of correction to be processed after issuance of this application into a patent.

Inquiries concerning this decision should be directed to the Terri Johnson at (571) 272-2991. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.

This matter is being referred to the Certificates of Correction Branch for processing of a certificate of correction after issuance of this application into a patent.

A handwritten signature in black ink, appearing to read "Terri Johnson", with a stylized flourish at the end.

Terri Johnson
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : April 3, 2012

In re Application of :

Marshall Crew

Application No : 11422133

Filed : 05-Jun-2006

Attorney Docket No : 3.0667/PC1876C

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed April 3, 2012 , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	
Application Number	11422133	
Filing Date	05-Jun-2006	
First Named Inventor	Marshall Crew	
Art Unit	1613	
Examiner Name	BLESSING FUBARA	
Attorney Docket Number	3.0667/PC1876C	
Title	PHARMACEUTICAL COMPOSITIONS OF DRUGS AND NEUTRALIZED ACIDIC POLYMERS	
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <ol style="list-style-type: none"> (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; (4) Statement that the entire delay was unintentional. 		
<p>Petition fee</p> <p>The petition fee under 37CFR 1.17(m) is attached.</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY.</p>		
<p>Issue Fee and Publication Fee :</p> <p>Issue Fee and Publication Fee must accompany ePetition.</p> <p><input checked="" type="checkbox"/> Issue Fee Transmittal is attached</p>		
Drawing corrections and/ or other deficiencies.		

- ☒ Drawing corrections and/ or other deficiencies are not required
- ☐ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ☐ Drawing corrections and/ or other deficiencies are attached.

STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a ☒ grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ☐ A joint inventor; all of whom are signing this e-petition.
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Dennis E. Stenzel/
Name	Dennis E. Stenzel
Registration Number	28763



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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LAW OFFICES OF LAI AND ASSOCIATES, P.C.
5800 RANCHESTER STE 200
HOUSTON TX 77036

MAILED
SEP 13 2010
OFFICE OF PETITIONS

In re Application of :
Hui-Min Chao, et al. :
Application No. 11/422,202 : **DECISION ON PETITION**
Filed: June 5, 2006 :
Attorney Docket No. P10411US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 24, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before August 16, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed May 14, 2010. Accordingly, the date of abandonment of this application is August 17, 2010. The Notice of Abandonment was mailed September 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510 and the publication fee of \$300, (2) the petition fee of \$1,620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

Terri Johnson
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
P.O. Box 1450

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JAN 20 2012

OFFICE OF PETITIONS

Novel IP
191 West Second Street
Santa Ana CA 92701

In re Application of :
Peter Steven BUI et al. : **ON PETITION**
Application No. 11/422,246 :
Filed: June 5, 2006 :
Atty. Docket No. UDT116.ORD :

This is in response to the petition under 37 CFR 1.137(b), filed November 16, 2011, to revive the above-identified application.

The petition is **GRANTED**.

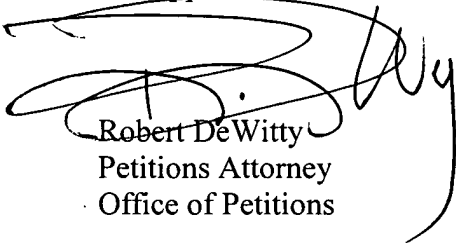
The application became abandoned for failure to reply in a timely manner to the Notice to File Corrected Application Papers mailed August 23, 2011 (Notice), which set a period for reply of two (2) months. The application became abandoned on October 24, 2011. A Notice of Abandonment was mailed November 15, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Notice mailed August 23, 2011, (2) a petition fee of \$1860, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. If the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application will be referred to Office of Data Management for further processing.



Robert DeWitty
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

DATE: August 24, 2011
TO: Certificates of Correction Branch
FROM: Edward J. Glick
SPE, Art Unit 2882
SUBJECT: REQUEST FOR CERTIFICATE OF CORRECTION

Please issue a Certificate of Correction in U. S. Letters Patent No. 7,245,697 as specified on the attached Certificate.

/Edward J Glick/

Edward J. Glick, SPE
Art Unit 2882

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE

Patent No. 7,245,697
Patented: July 17, 2007

On petition requesting issuance of a certificate for correction of inventorship pursuant to 35 U.S.C. 256, it has been found that the above identified patent, through error and without deceptive intent, improperly sets forth the inventorship. Accordingly, it is hereby certified that the correct inventorship of this patent is:

Philipp Lang, Lexington, MA (US)
Daniel Steines, Lexington, MA (US)

/Edward J Glick/
Edward J. Glick
Supervisory Patent Examiner
Art Unit 2882



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**K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690**

**MAILED
DEC 21 2010
OFFICE OF PETITIONS**

In re Application of
Jay S. WALKER
Application No. 11/422,392
Filed: June 06, 2006
Attorney Docket No. 3718582.00016

DECISION ON PETITION

This is a decision on the petition filed November 03, 2010, requesting under 37 CFR 1.182 that the acceptance of the terminal disclaimers filed January 07, 2009 be withdrawn. The \$400.00 petition fee has been received.

The petition is GRANTED.

Petitioner request withdrawal of the terminal disclaimers that were filed on 1/7/2009. There were three terminal disclaimers filed on this date and only the one with the eight patents listed is under review by the office of petitions. The terminal disclaimers that included Patent Numbers 4,614,342 and 5,178,390 were unnecessary and the other six listed on the form have had terminal disclaimers filed and approved on 11/03/2010 (thus there are 6 TDs filed on 11/03/2010 that have replaced one of the TDs that was filed on 1/7/2009). Therefore, the terminal disclaimers filed January 07, 2009 are hereby withdrawn and are not needed for the examination of this application.

The undersigned has consulted with the examiner in charge of this application, and has found that the examiner concurs with petitioners' assertion. Accordingly, the terminal disclaimer is withdrawn. USPTO records for the above-identified application have been changed consistent with this decision.

Telephone inquiries related to this decision should be addressed to Michelle R. Eason at (571) -272-4231.

This application file is being referred to the Office of Data Management.

/Thurman K. Page/
Petitions Examiner
Office of Petitions



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K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

MAILED
APR 06 2012
OFFICE OF PETITIONS

In re Application of:
Walker et al.
Application No. 11/422436
Filing or 371(c) Date: 06/06/2006
Atty. Docket No.:
3718582.00019

:
: ON REQUEST FOR
: RECONSIDERATION OF
: PATENT TERM ADJUSTMENT
:
:

This letter is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b)," filed February 24, 2012. Applicants submit that the correct patent term adjustment should be 72 days, not 306 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction based upon an assertion that the Office erred in failing to calculate a reduction of 234 days pursuant to 37 CFR 1.704(c)(3).

The application for patent term adjustment is **GRANTED TO THE EXTENT INDICATED.**

The Office has updated the PALM and PAIR screens to reflect that the Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is seventy-one (71) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On February 8, 2012, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 306 days.

On February 24, 2012, applicant timely submitted the present application for patent term adjustment¹. Applicants assert that the Office erred in failing to calculate a reduction of 234 days pursuant to 37 CFR 1.704(c)(3).

Applicant's arguments have been carefully considered. A review of Office records confirms that the a reduction in connection with the abandonment and revival of the application pursuant to 37 CFR 1.704(c)(3), beginning on the date of abandonment, April 28, 2009, and ending on date of

¹ Office records show that the petition precedes payment of the Issue Fee.

mailing of the decision reviving the application, December 18, 2009, is proper; however, the reduction is calculated as 235 days.

In view thereof, the correct Patent Term Adjustment at the time of the mailing of the Notice of Allowance is seventy-one (71) days, subject to any terminal disclaimer.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Publications Division for issuance of a patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of Adjustment PAIR Calculations



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11422436

[Search](#)

[Explanation of PTA Calculation](#)

[Explanation of PTE Calculation](#)

PTA Calculations for Application: 11422436

Application Filing Date	06/06/2006	OverLapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays:	372
A Delays	372	PTO Manual Adjustment:	235
B Delays	0	Applicant Delay (APPL)	66
C Delays	0	Total PTA (days)	71

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
99	04/04/2012		P028	Adjustment of PTA Calculation by PTO		235	0
93	02/08/2012	02/01/2011	MN/=.	Mail Notice of Allowance	372		83
92	02/03/2012		OAR	Office Action Review			0
91	02/03/2012		N/=.	Notice of Allowance Data Verification Completed			0
90	02/03/2012		IREV	Issue Revision Completed			0
89	02/03/2012		DVER	Document Verification			0
88	02/02/2012		CNTA	Allowability Notice			0
85	10/06/2010		FWDX	Date Forwarded to Examiner			0
82	10/06/2010		ABN9	Disposal for a RCE / CPA / R129			0
84	10/01/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
83	10/01/2010		RCEX	Request for Continued Examination (RCE)			0
81	10/01/2010		BRCE	Workflow - Request for RCE - Begin			0
80	07/01/2010		ELC_RVW	Electronic Review			0
79	07/01/2010		EML_NTF	Email Notification			0
78	07/01/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
77	06/29/2010		CTFR	Final Rejection			0
76	05/11/2010		FWDX	Date Forwarded to Examiner			0
75	04/30/2010		A...	Response after Non-Final Action			0
74	02/03/2010		ELC_RVW	Electronic Review			0
73	02/03/2010		EML_NTF	Email Notification			0
72	02/03/2010		MCTNF	Mail Non-Final Rejection			0
71	01/26/2010		CTNF	Non-Final Rejection			0
70	01/06/2010		FWDX	Date Forwarded to Examiner			0
67	01/06/2010		ABN9	Disposal for a RCE / CPA / R129			0
63	12/23/2009		EML_NTR	Email Notification			0
69	12/23/2009		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
68	12/23/2009	09/23/2009	RCEX	Request for Continued Examination (RCE)			66
62	12/23/2009		BRCE	Workflow - Request for RCE - Begin			0
65	12/18/2009		MNRAB	Mail Notice of Rescinded Abandonment			0
61	12/18/2009		MPREV	Mail-Petition to Revive Application - Granted			0
64	12/17/2009		NRAB	Notice of Rescinded Abandonment in TCs			0
60	12/17/2009		PREV	Petition to Revive Application - Granted			0
59	12/08/2009		EML_NTR	Email Notification			0
58	12/08/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
57	12/07/2009		EML_NTR	Email Notification			0
56	12/07/2009		MABN2	Mail Abandonment for Failure to Respond to Office Action			0
55	12/03/2009		ABN2	Aband. for Failure to Respond to O. A.			0
54	11/30/2009		CAD	Correspondence Address Change			0
66	09/23/2009		N/AP	Notice of Appeal Filed			0
53	09/23/2009		PET.	Petition Entered			0
52	01/27/2009		MCTNF	Mail Non-Final Rejection			0
51	01/21/2009		CTNF	Non-Final Rejection			0
50	12/04/2008		FWDX	Date Forwarded to Examiner			0
48	12/04/2008		FWDX	Date Forwarded to Examiner			0
46	12/04/2008		ABN9	Disposal for a RCE / CPA / R129			0
49	11/21/2008		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
47	11/21/2008	10/21/2008	RCEX	Request for Continued Examination (RCE)		31	41
45	11/21/2008		XT/G	Request for Extension of Time - Granted			0
44	11/21/2008		BRCE	Workflow - Request for RCE - Begin			0
43	09/30/2008		DOCK	Case Docketed to Examiner in GAU			0
42	07/25/2008		DOCK	Case Docketed to Examiner in GAU			0
41	07/21/2008		MCTFR	Mail Final Rejection (PTOL - 326)			0
40	07/18/2008		CTFR	Final Rejection			0
39	05/20/2008		FWDX	Date Forwarded to Examiner			0
38	03/28/2008	02/28/2008	A...	Response after Non-Final Action		29	36
37	03/28/2008		XT/G	Request for Extension of Time - Granted			0

36	11/28/2007	MCTNF	Mail Non-Final Rejection	0
35	11/26/2007	CTNF	Non-Final Rejection	0
29	09/26/2007	FWDX	Date Forwarded to Examiner	0
27	09/26/2007	FWDX	Date Forwarded to Examiner	0
25	09/26/2007	ABN9	Disposal for a RCE / CPA / R129	0
34	09/25/2007	IDSC	Information Disclosure Statement considered	0
33	09/25/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
32	09/25/2007	RCAP	Reference capture on IDS	0
31	09/25/2007	09/19/2007 M844	Information Disclosure Statement (IDS) Filed	26
28	09/20/2007	AMSB	Amendment Submitted/Entered with Filing of CPA/RCE	0
26	09/19/2007	RCEX	Request for Continued Examination (RCE)	0
24	09/19/2007	BRCE	Workflow - Request for RCE - Begin	0
23	09/14/2007	MCTAV	Mail Advisory Action (PTOL - 303)	0
22	09/13/2007	CTAV	Advisory Action (PTOL-303)	0
21	09/06/2007	FWDX	Date Forwarded to Examiner	0
20	08/31/2007	A.NE	Amendment after Final Rejection	0
19	08/29/2007	MEXIN	Mail Examiner Interview Summary (PTOL - 413)	0
18	08/23/2007	EXIN	Examiner Interview Summary Record (PTOL - 413)	0
17	06/19/2007	MCTFR	Mail Final Rejection (PTOL - 326)	0
16	06/11/2007	CTFR	Final Rejection	0
15	04/05/2007	FWDX	Date Forwarded to Examiner	0
14	03/30/2007	A...	Response after Non-Final Action	0
13	01/22/2007	MCTNF	Mail Non-Final Rejection	0
12	01/17/2007	CTNF	Non-Final Rejection	0
10	01/04/2007	DOCK	Case Docketed to Examiner in GAU	0
7	09/10/2006	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
11	08/24/2006	IDSC	Information Disclosure Statement considered	0
9	08/24/2006	RCAP	Reference capture on IDS	0
6.7	08/24/2006	M844	Information Disclosure Statement (IDS) Filed	0
6	08/24/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
4	06/13/2006	COMP	Application Is Now Complete	0
5	06/12/2006	OIPE	Application Dispatched from OIPE	0
3	06/08/2006	L194	Cleared by OIPE CSR	0
8	06/06/2006	A.PE	Preliminary Amendment	0
2	06/06/2006	SCAN	IFW Scan & PACR Auto Security Review	0
1	06/06/2006	IEXX	Initial Exam Team nn	0
0.5	06/06/2006	EFILE	Filing date	0

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900 WASHINGTON
P.O. BOX 1470
WACO TX 76703

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JUL 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,192,011 :
Issued: March 20, 2007 :
Application No. 11/422,437 : **ON PETITION**
Filed: June 6, 2006 :
Attorney Docket No. 26080-002-MEISSNER :

This is a decision on the petition under 37 CFR 1.378(c), filed June 10, 2011, to accept the delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on March 21, 2011 for failure to pay the three and one-half year maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

The maintenance fee is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

Additionally, the file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a request to change the address of record should be filed. Petitioner should note that a change of correspondence address would not affect the fee address. Therefore, if petitioner desires to receive future correspondence, which **may** be mailed regarding maintenance fees for the above-identified patent, the "fee address" and/or "customer number" forms should be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Jason Robert Meissner
2974 C.R. 309
Cranfills Gap, Texas 76637



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JUL 19 2011

OFFICE OF PETITIONS

**MOTOROLA MOBILITY, INC
600 NORTH US HIGHWAY 45
W2-55BB
LIBERTYVILLE IL 60048-5343**

In re Application of :
George T. Valliath et al. :
Application No. 11/422,438 : **DECISION ON PETITION**
Filed: June 06, 2006 :
Attorney Docket No. **CM01421i P01** :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 03, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 07, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on September 08, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D). The instant petition lacks item(s) (1).

Petitioner failed to provide an amendment that *prima facie* places the application in condition for allowance.


Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at (571) 272-2783.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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MOTOROLA MOBILITY, INC.
600 NORTH US HIGHWAY 45
WD-55BB
LIBERTYVILLE, IL 60048-5343

MAILED

SEP 09 2011

OFFICE OF PETITIONS

In re Application of :
George T. Valliath, et al. :
Application No. 11/422,438 : **DECISION ON PETITION**
Filed: June 6, 2006 :
Attorney Docket No. CM01421i P01 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 22, 2011, to revive the above-identified application.

The petition is **GRANTED**.


The application became abandoned for failure to reply in a timely manner to the Office action under Ex parte Quayle, 1935 Dec. Comm'r Pat. 11 (1935), mailed June 7, 2010, which set a shortened statutory period for reply of two (2) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the terminal disclaimer, (2) the petition fee of \$1620, (3) a proper statement of unintentional delay and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.137(d)).

The terminal disclaims is hereby accepted and officially made of record.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business on the reply received March 3, 2011.


April M. Wise
Petitions Examiner
Office of Petitions

**REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF WYETH***

Attorney Docket

Number: 19817-0008001

Application

Number: 11/422,516

Filing Date

(or 371(b) or (f) Date): June 6, 2006

Patent Number:

7,664,971

Issue Date:

February 16, 2010

First Named

Inventor: Jang Geun OH

Title:

CONTROLLING POWER SUPPLY IN A MULTI-CORE PROCESSOR

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-WYETH INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /George P. Bonanto/

Date August 10, 2010

Name:

(Print/Type) George P. Bonanto

Registration Number: 59,717

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 09/02/2010

Applicant	: Jang Geun Oh	: DECISION ON REQUEST FOR
Patent Number	: 7664971	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/422,516	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/06/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **636** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/422,536	06/06/2006	Jason Morse	1361032-2038.1	4370
7590 01/25/2011			EXAMINER	
Yahoo! Inc. c/o Frommer, Lawrence & Haug LLP 745 Fifth Avenue NEW YORK, NY 10151			SISON, JUNE Y	
			ART UNIT	PAPER NUMBER
			2443	
			MAIL DATE	DELIVERY MODE
			01/25/2011	PAPER

DECISION DISMISSING PETITION UNDER 37 CFR 1.138(d)
The declaration of express abandonment will not be recognized

This is in response to the petition under 37 CFR 1.138(d), requesting for a refund of any previously paid search fee and excess claims fee in the above-identified application.

The petition is dismissed.

The express abandonment will **not** be recognized for the reason(s) indicated below:

- ☒ The petition was not filed in sufficient time to permit the appropriate officials to recognize the abandonment before an examination has been made of the application. See 37 CFR 1.138(d).
- ☐ The petition was not signed by a party authorized by 37 CFR 1.33(b)(1), (3) or (4).
- ☐ The application is not an application filed under 35 U.S.C. 111(a) on or after December 8, 2004.
- ☐ The petition for express abandonment under 1.138(d) is dismissed because the applicant did not pay any search fee and excess claims fees in the above-identified application.

Telephone inquiries should be directed to the Office of Data Management at (571) 272-4200.

Patent Publication Branch
Office of Data Management



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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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OCT 29 2010

OFFICE OF PETITIONS

In re Application of :
Trezza :
Application No. 11/422,551 : ON APPLICATION FOR
Filed: June 6, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 088245-4723 :

This is in response to the "Request for Reconsideration of Patent Term Adjustment for Patent Application under 37 CFR 1.705(b)" filed October 12, 2010. Applicants submits that the patent term adjustment to be indicated on the patent is three hundred twenty-one (321) days, not one hundred and eighty-two (182) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent and overlap considerations.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including -

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on October 26, 2009.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions



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**LAW OFFICES OF KEVIN ROE
155 E. CAMBELL AVE
SUITE 203
CAMPBELL CA 95008**

MAILED

MAR 22 2011

OFFICE OF PETITIONS

In re Application of	:	
Varsanofiev et al.	:	
Application No. 11/422,599	:	DECISION ON PETITION
Filed: June 7, 2006	:	
Attorney Docket No. MM0000	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 21, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on April 22, 2010. A Notice of Abandonment was mailed October 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$810.00, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 2435 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

PAPER NO.:

DATE : 10/22/10

TO SPE OF : ART UNIT: 2611 Attn: FAN CHIEH M (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/422643 Patent No.: 7630450

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square Building (RSQ)
2800 South Randolph Street, Suite 9XXXX
Arlington, VA 22206
PALM Location 7580

Tasneem Siddiqui

Please check the Drawings

Certificates of Correction Branch
703-756-1593

Thank You for Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Chieh M. Fan/

SPE

2611

Art Unit



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SUITE 3400
CHICAGO, IL 60661

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FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	
Catreux-Erceg et al.	:	DECISION ON APPLICATION
Application No. 11/422,689	:	FOR PATENT TERM ADJUSTMENT
Filed: June 7, 2006	:	
Attorney Docket No. 17371US01	:	

This is in response to the paper filed September 3, 2010, which is being treated as a petition under 37 C.F.R. § 1.705(b) requesting the initial determination of patent term adjustment be corrected from five hundred eighty-nine (589) days to eight hundred eighteen (818) days.

The application for patent term adjustment is **dismissed**.

The Office mailed a Determination of Patent Term Adjustment under 35 U.S.C. § 154(b) on June 14, 2010, advising Applicants of a patent term adjustment to date of 589 days. In response, Applicants timely filed this application for patent term adjustment along with the issue fee on September 3, 2010.

The patent term adjustment determination of 589 days mailed with the Notice of Allowance consists of 591 days delay under 37 C.F.R. § 1.703(a)(1) reduced by 2 days of delay under 37 C.F.R. § 1.704(b).

Applicants assert the correct patent term adjustment is 818 days, which is the sum of 591 days of delay under 37 C.F.R. § 1.703(a)(1) and 227 days of delay under 37 C.F.R. § 1.703(b) reduced by 0 days of delay under 37 C.F.R. § 1.704(b).

Delay Under 37 C.F.R. § 1.703(b)

To the extent applicants request reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the request is premature.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See 37 C.F.R. § 1.702(b). (This is true even where a request for continued examination (RCE)

was filed). The computer will not undertake the 37 C.F.R. § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 C.F.R. § 1.702(a)(4) or applicant delay under 37 C.F.R. § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 C.F.R. § 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature.

Rather than file an application for patent term adjustment under 37 C.F.R. § 1.705(b) contesting the 37 C.F.R. § 1.702(b) calculation at the time of the mailing of the notice of allowance, an applicant may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 C.F.R. § 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 C.F.R. § 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 C.F.R. § 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 C.F.R. § 1.705(d) and must include payment of the required fee under 37 C.F.R. § 1.18(e).

Delay Under 37 C.F.R. § 1.704(b)

Applicants assert the Office's entry of a 2-day reduction in patent term adjustment for delay under 37 C.F.R. § 1.704(b) was improper.

37 C.F.R. § 1.704(b) provides for a reduction when a party takes more than 3 months to respond to any notice or action by the Office making any rejection, objection, argument or other request. Specifically, 37 C.F.R. § 1.704(b) states,

[A]n applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 C.F.R. § 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 C.F.R. § 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 C.F.R. § 1.705(b) and 35 U.S.C. § 154(b)(3)(B). A dispute as to the calculation of the 37 C.F.R. § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 C.F.R. § 1.705(d) will be dismissed as untimely filed.

time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

The Office mailed a non-final Office action on March 20, 2009, which set a shortened statutory period for reply of three (3) months. Applicants filed a reply on Monday, June 22, 2009. Applicants argue a reduction in patent term adjustment is not warranted for delay in the submission of the reply because the due date to file a reply fell on a Saturday and June 22, 2009, was the first succeeding day that was not a Saturday, Sunday, or a Federal holiday.

37 C.F.R. § 1.7(a) states,

When the day, or the last day fixed by statute or by or under this part for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or on a Federal holiday within the District of Columbia, the action may be taken, or the fee paid, on the next succeeding business day which is not a Saturday, Sunday, or a Federal holiday.

The Office recognizes, pursuant to 37 C.F.R. § 1.7(a), the due date for a reply to the March 20, 2009 Office action was shifted to Monday, June 22, 2009, absent payment for an extension of time. However, the due date for a reply to a notice or Office action is irrelevant when applying the provisions of 37 C.F.R. § 1.704(b). Specifically, 37 C.F.R. § 1.704(b) states, "The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph."

Pursuant to 37 C.F.R. § 1.7(a), the January 7, 2007 reply was a timely response to the prior Office action. However, the fact a reply is timely does not preclude a reduction under 37 C.F.R. § 1.704(b). For example, if an Office action sets forth a shortened statutory period for reply of 3 months, and a reply is filed 3 months and 75 days later with payment for a three-month extension of time, a 75-day reduction will be warranted under 37 C.F.R. § 1.704(b) even though the reply is timely.

In view of the prior discussion, the Office's entry of a 2-day reduction in patent term adjustment under 37 C.F.R. § 1.704(b) was proper.

Conclusion

The initial patent term adjustment remains 589 days, which is 591 days of delay under 37 C.F.R. § 1.703(a)(1) reduced by 2 days of delay under 37 C.F.R. § 1.704(b).

Submission of the \$200.00 fee set forth in 37 C.F.R. § 1.18(e) is acknowledged.

Applicants are reminded any delays by the Office pursuant to 37 C.F.R. §§ 1.702(a)(4) and 1.702(b) and any applicant delays under 37 C.F.R. § 1.704(c)(10) will be calculated at the time of the issuance of the patent and applicants will be notified of the revised patent term adjustment to be indicated on the patent in the Issue Notification letter that is mailed to applicants approximately three weeks prior to issuance.

The Office of Data Management has been advised of this decision. This matter is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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P.O. Box 1450
Alexandria, VA 22313-1450
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CICHOSZ & CICHOSZ, PLLC
129 E. COMMERCE
MILFORD MI 48381

MAILED

AUG 23 2010

OFFICE OF PETITIONS

In re Application of :
Zettel et al. :
Application No. 11/422,700 : **DECISION ON PETITION**
Filed: June 7, 2006 :
Attorney Docket No. GP-308434-PTH-CD :

This is a decision on the petition under 37 CFR 1.137(b), filed June 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Non-Compliant Amendment mailed November 25, 2009, which set a period for reply of one (1) month or thirty (30) days, whichever is longer. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the above-identified application became abandoned on December 26, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an Amendment, (2) the petition fee of \$1,620.00 and (3) a proper statement of unintentional delay.

Further, it is not apparent whether the person signing the instant petition was ever given a power of attorney or authorization of agent to prosecute this patent. In accordance with 37 CFR 1.34(a), the signature appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he/she is authorized to represent the particular party in whose behalf he/she acts.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

The application file is being referred to Technology Center AU 3618 for appropriate action on the concurrently filed amendment.

Joan Olszewski
Petitions Examiner
Office of Petitions



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P.O. BOX 2000
RAHWAY, NJ 07065-0907

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SEP 23 2011

OFFICE OF PETITIONS

In re Application of
Jeffrey John Letourneau et al
Application No. 11/422,710
Filed: June 7, 2006
Attorney Docket No. 2005.925US

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 9, 2011, to revive the above-identified application.

The petition is **GRANTED**.


The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of June 9, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that prima facie places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). Three month (3) extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is December 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810 the submission required by 37 CFR 1.114; (2) the petition fee of \$1620 and (3) a proper statement of unintentional delay.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 1624 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment filed September 9, 2011 submitted in accordance with 37 CFR 1.114.

A handwritten signature in black ink, appearing to read 'Irvin Dingle', is positioned above the printed name.

Irvin Dingle
Petition Examiner
Office of Petitions

cc: Susan L. Hess
Merck Sharp & Dohme Corp.
126 East Lincoln Avenue
Rahway, NJ 07065



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SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402

MAILED

OCT 25 2010

In re Application of	:	OFFICE OF PETITIONS
Thomas Hauser, et al.	:	
Application No. 11/422,785	:	DECISION ON PETITION
Filed: June 7, 2006	:	TO WITHDRAW
Attorney Docket No. IFXAG0158US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed September 30, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Schwegman, Lundberg & Woessner, P.A. has been revoked by the assignee of the patent application on May 10, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **SpryIP, LLC**
IFX
5009 163rd PL SE
Bellevue, WA 98006



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NATIONAL AERONAUTICS AND SPACE ADMINISTRATION
LANGLEY RESEARCH CENTER
MAIL STOP 141
HAMPTON, VA 23681-2199

MAILED

APR 07 2011

OFFICE OF PETITIONS

In re Application of	:	
Qamar A. Shams et al	:	DECISION REFUSING STATUS
Application No. 11/422,984	:	UNDER 37 CFR 1.47(a)
Filed: June 8, 2006	:	
Attorney Docket No. LAR-16736-1	:	

This is in response to the petition filed July 31, 2006, which is being treated as a petition under 37 CFR 1.47(a).

The petition is **dismissed**.

Rule 47 applicant is given TWO MONTHS from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Request for Reconsideration of Petition Under 37 CFR 1.47(a)," and should only address the deficiencies noted below, except that the reply may include an oath or declaration executed by the non-signing inventor. **FAILURE TO RESPOND WILL RESULT IN ABANDONMENT OF THE APPLICATION.** Any extensions of time will be governed by 37 CFR 1.136(a).

A grantable petition under 37 CFR 1.47(a) requires: (1) proof that the non-signing inventors cannot be reached or refuses to sign the oath or declaration after having been presented with the application papers (specification, claims and drawings); (2) an acceptable oath or declaration in compliance with 35 U.S.C. §§ 115 and 116; (3) the petition fee; and (4) a statement of the last known addresses of the non-signing inventors. Applicant lack item (2) set forth above.

As to item (2), the declaration is defective since it is not in compliance with 37 CFR 1.63. The administrators on behalf of deceased inventor Robert L. Fox have not executed a proper declaration. Note MPEP 409.03(a)(A) which states:

Where an application is executed by one other than the inventor, the declaration required by 37 CFR 1.63 must state the full name, residence, post office address, and citizenship of the nonsigning inventor.

and MPEP 409.01(a) which states:

The heirs should identify themselves as the legal representative of the deceased inventor in the oath or declaration submitted pursuant to 37 CFR 1.63 and 1.64.declaration.

As authorized, the \$200 petition fee is being charged to petitioner's Deposit Account Number 14-0116.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

/dab/
David Bucci
Petition Examiner
Office of Petitions



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HAMPTON, VA 23681-2199

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MAY 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Qamar A. Shams et al	:	DECISION GRANTING STATUS
Application No. 11/422,984	:	UNDER 37 CFR 1.47(a)
Filed: June 8, 2006	:	
Attorney Docket No. LAR-16736-1	:	

CORRECTED DECISION

This is a decision on the petition filed July 31, 2006 under 37 CFR 1.47(a).

The petition is **GRANTED**.

Petitioner has shown that the non-signing inventor John C. Ingham has refused to join in the filing of the above-identified application.

The application and papers have been reviewed and found in compliance with 37 CFR 1.47(a). This application is hereby accorded Rule 1.47(a) status.

As provided in 37 CFR 1.47(c), this Office will forward notice of this application's filing to the non-signing inventor at the address given in the petition. Notice of the filing of this application will also be published in the Official Gazette.

The decision mailed April 7, 2011 is hereby vacated as of the mail date of this decision.

This matter is being referred to the Office of Patent Application Processing.

Telephone inquiries regarding this decision should be directed to Irvin Dingle at (571) 272-3210.

/dab/

David Bucci
Petitions Examiner
Office of Petitions



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MAILED
MAY 02 2011
OFFICE OF PETITIONS

John C. Ingham
5990 Richmond Highway, Apartment 104
Alexandria, VA 22303

In re Application of
Qamar A. Shams; Michael J. Logan; Robert L. Fox (Deceased); John C. Ingham; Sean A. Laughter;
Theodore R. Kuhn; James K. Adams; Walter C. Babel, III
Application No. 11/422,984
Filed: June 8, 2006
For: SELF-CONTAINED AVIONICS SENSING AND FLIGHT CONTROL SYSTEM FOR SMALL
UNMANNED AERIAL VEHICLE

Dear Mr. Ingham:

You are named as a joint inventor in the above identified United States patent application, filed under the provisions of 35 U.S.C. 116 (United States Code), and 37 CFR 1.47(a), Rules of Practice in Patent Cases. Should a patent be granted on the application you will be designated therein as a joint inventor.

As a named inventor you are entitled to inspect any paper in the file wrapper of the application, order copies of all or any part thereof (at a prepaid cost per 37 CFR 1.19) or make your position of record in the application. Alternatively, you may arrange to do any of the preceding through a registered patent attorney or agent presenting written authorization from you. If you care to join in the application, counsel of record (see below) would presumably assist you. Joining in the application would entail the filing of an appropriate oath or declaration by you pursuant to 37 CFR 1.63.

Telephone inquiries regarding this communication should be directed to the Irvin Dingle at (571) 272-3210. Requests for information regarding your application should be directed to the File Information Unit at (703) 308-2733. Information regarding how to pay for and order a copy of the application, or a specific paper in the application, should be directed to Certification Division at (571) 272-3150 or 1 (800) 972-6382 (outside the Washington D.C. area).

/dab/
David Bucci
Petitions Examiner
Office of Petitions

cc: National Aeronautics and Space Administration
Langley Research Center
Mail Stop 141
Hampton, VA 23681-2199



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GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

MAILED
MAY 25 2011
OFFICE OF PETITIONS

In re Application of
Hiroyuki NAKAYAMA, et al.
Application No. 11/423,010
Filed: June 8, 2006
Attorney Docket No. **P29575**

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 20, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 11, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 1765 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). **Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.***



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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

MAR 18 2011

OFFICE OF PETITIONS

In re Application of	:	
Karaoguz et al.	:	ON APPLICATION FOR
Application No. 11/423,049	:	PATENT TERM ADJUSTMENT
Filed: June 8, 2006	:	
Attorney Dkt. No. 16864US02	:	
For: PROGRAMMABLE WIRELESS	:	
ACCESS POINT SUPPORTING	:	
CONFIGURATION PROFILE UPDATING	:	

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)" filed February 10, 2011. This request is properly treated under 37 CFR 1.705(b). Applicants request that the determination of patent term adjustment be corrected from five hundred forty-one (541) days to one thousand two hundred thirty-two (1,232) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the

computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

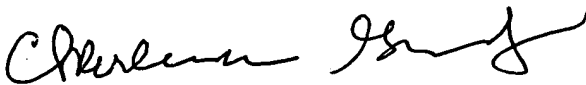
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Charlema Grant', with a stylized flourish at the end.

Charlema Grant
Attorney
Office of Petitions



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WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905

MAILED
JUL 27 2011
OFFICE OF PETITIONS

In re Application of
Walker et al.

Application No. 11/423,055

Filed: June 8, 2006

Attorney Docket No. 01-053-C3

:
:
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(3)
: UNDER 37 CFR 1.78(a)(6)

This is a decision on the petitions under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), filed June 27, 2011, to accept an unintentionally delayed claims under 35 U.S.C. §§120 and 119(e) for the benefit of the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment to the specification herein is not acceptable as it states "the present application claims the benefit of priority of U.S. Provisional Patent Application No. 60/401,852, filed August 7, 2002." Petitioner should note that when a later-filed application is claiming the benefit of a prior-filed provisional application under 35 U.S.C. 119(e), the nonprovisional application must be filed not later than 12 months after the date on which the provisional application was filed. The present application was not filed within twelve months from the filing date of the provisional application and therefore copendency does not exist between these

applications and the benefit claim to the prior-filed provisional application is improper. Copendency between the instant application and the prior applications is required.

Further, a reference to add prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment, however the amendment is not acceptable as drafted since it improperly incorporates by reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, *supra* at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. *See In re deSeversky, supra*. Note also MPEP 201.06(c).

37 CFR § 1.78(a)(3) and 1.78(a)(6) requires a statement that the entire delay between the date the claim was due under 37 CFR §§1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the required language, the statement is being construed as the statement required by 37 CFR §1.78(a)(3) and 1.78(a)(6). If this is not a correct reading of the statement appearing in the petition, petitioner should promptly notify the Office.

Accordingly, before the petition under 37 CFR 1.78(a)(3) and 1.78(a)(6) can be granted, a substitute amendment¹ correcting the above items, by deleting the incorporation by reference statement in addition to the reference to the prior-filed provisional application from the first sentence(s) of the specification, or the application data sheet, depending on where the reference was originally submitted, unless applicant can establish that this application, or an intermediate nonprovisional application, was filed within 12 months of the filing date of the provisional application along with a renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

¹ Note 37 CFR 1.121

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley-Collier at (571) 272-6509.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions



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**WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD CT 06905**

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of
Walker et al.
Application No. 11/423,055
Filed: June 8, 2006
Attorney Docket No. 01-053-C3

:
: **DECISION ON PETITIONS**
: **UNDER 37 CFR 1.78(a)(3)**
: **AND 37 CFR 1.78(a)(6)**
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) and 1.78(a)(6), filed August 25, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 and 119(e) for the benefit of the prior-filed applications set forth in the amendment filed concurrently with the instant petition.

The petitions are **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). In addition, the petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) must be accompanied by:

- (1) the reference required by 35 U.S.C. §§ 120 and 119(e) and 37 CFR §§ 1.78(a)(2)(i) and 1.78(a)(5)(i) of the prior-filed applications, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed on June 8, 2006 and was pending at the time of filing of the instant petition. A reference to the prior-filed applications has been included in an amendment to the first sentence of the specification following the title, as required by 37 CFR §§ 1.78(a)(2)(iii) and 1.78(a)(5)(iii).

The instant nonprovisional application was filed after November 29, 2000, and the claim for priority herein is submitted after expiration of the period specified in 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii). See 35 U.S.C. § 120 and § 119(e). Accordingly, having found that the instant petition satisfies the conditions of 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) for acceptance of an unintentionally delayed claim for priority under 35 U.S.C. § 120 and § 119(e), the petition to accept an unintentionally delayed claim of benefit to the prior-filed applications is granted.

Additionally, 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) require a statement that the entire delay between the date the claim was due under 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii) and the date the claim was filed was unintentional. Since the statement appearing in the petition varies from the language required 37 CFR §§ 1.78(a)(2)(ii) and 1.78(a)(5)(ii), the statement is being construed as the required statement. Petitioner must notify the Office if this is **not** a correct reading of the statement appearing in the petition.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §120 and 1.78(a)(1) and (a)(2) and under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any questions concerning this matter may be directed to Joan Olszewski at (571) 272-3206.

This matter is being referred to Technology Center Art Unit 3714 for appropriate action on the Amendment submitted August 25, 2011, including consideration by the examiner of the claim under 35 U.S.C. § 120 and 37 CFR 1.78(a)(2) for the benefit of the prior-filed nonprovisional applications, and for consideration of the claim under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(5) for the benefit of the prior-filed provisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

cc: **ATTACHMENT:** Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/423,055	06/08/2006	3714	3050	01-053-C3	53	5

CONFIRMATION NO. 5154

CORRECTED FILING RECEIPT

22927

WALKER DIGITAL MANAGEMENT, LLC
2 HIGH RIDGE PARK
STAMFORD, CT 06905



OC000000049734182

Date Mailed: 09/08/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jay S. Walker, Ridgefield, CT;
James A. Jorasch, Stamford, CT;
Geoffrey M. Gelman, Stamford, CT;
Magdalena M. Fincham, Norwalk, CT;
Steven M. Santisi, Ridgefield, CT;
Norman C. Gilman, New York, NY;
Thomas M. Sparico, New York, NY;

Power of Attorney: The patent practitioners associated with Customer Number 22927

Domestic Priority data as claimed by applicant

This application is a CON of 10/636,520 08/07/2003 PAT 7,874,914
which is a CIP of 10/001,089 11/02/2001 PAT 7,140,964
which is a CIP of 09/518,760 03/03/2000 PAT 6,319,127
which is a CON of 08/880,838 06/23/1997 PAT 6,077,163
and said 10/001,089 11/02/2001
claims benefit of 60/282,792 04/10/2001
and said 10/636,520 08/07/2003
is a CIP of 10/159,722 05/30/2002 PAT 6,969,317
which is a CON of 09/879,299 06/12/2001 PAT 6,634,942
which is a CIP of 09/437,204 11/09/1999 PAT 6,244,957
which is a CON of 08/774,487 12/30/1996 PAT 6,012,983
and said 10/636,520 08/07/2003
claims benefit of 60/401,852 08/07/2002

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 06/22/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/423,055**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No
Title

SYSTEM AND METHOD FOR COMMUNICATING GAME SESSION INFORMATION

Preliminary Class

463

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER
Title 35, United States Code, Section 184
Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

Doc code : PET.OP.AGE

Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)

Approved for use through 07/31/2012. OMB 0651- 0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)					
Application Information					
Application Number	11423073	Confirmation Number	5177	Filing Date	2006-06-08
Attorney Docket Number (optional)	CM-SR-0082	Art Unit	3762	Examiner	Michael J DAbreu
First Named Inventor	Halperin et al.				
Title of Invention	Band Stop Filter Employing a Capacitor and an Inductor Tank Circuit to Enhance MRI Compatibility of Active Medical Devices				
Attention: Office of Petitions An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV). APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE. A grantable petition requires one of the following items: (1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or (2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.					
Name of Inventor who is 65 years of age, or older					
Given Name	Middle Name	Family Name	Suffix		
Robert	Allan	Stevenson			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the format of the signature. Select (1) or (2) :					
<input type="radio"/> (1) I am an inventor in this application and I am 65 years of age, or more.					
<input checked="" type="radio"/> (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.					
Signature	/Michael F. Scalise/		Date (YYYY-MM-DD)	2011-05-09	
Name	Michael F. Scalise		Registration Number	34920	

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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In re Application of
Henry R. Halperin

Application No. 11423073

Filed: June 8, 2006

Attorney Docket No. CM-SR-0082

:
:

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 09-MAY-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11423073	
Filing Date	08-Jun-2006	
First Named Inventor	Henry Halperin	
Art Unit	3762	
Examiner Name	MICHAEL D ABREU	
Attorney Docket Number	CM-SR-0082	
Title	BAND STOP FILTER EMPLOYING A CAPACITOR AND AN INDUCTOR TANK CIRCUIT TO ENHANCE MRI COMPATIBILITY OF ACTIVE MEDICAL DEVICES	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Michael F. Scalise/
Name	Michael F. Scalise
Registration Number	34920



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Decision Date : February 16, 2012

In re Application of :

Henry Halperin

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11423073

Filed : 08-Jun-2006

Attorney Docket No : CM-SR-0082

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed February 16, 2012, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 3762 for processing of the request for continuing examination under 37 CFR 1.114.

Office of Petitions



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INTERNATIONAL BUSINESS MACHINES CORPORATION
9000 SOUTH RITA ROAD
TUCSON, AZ 85744

MAILED

AUG 25 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Kenneth Wayne Boyd et al :
Application No. 11/423,103 :
Filed: June 8, 2006 :
Attorney Docket No. TUC920050129US1 :

This is a decision on the petition, filed August 20, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 20, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2114 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: David W. Victor
Konrad Raynes & Victor, LLP
315 South Beverly Drive, Ste. 210
Beverly Hills, CA 90212

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



UNITED STATES PATENT AND TRADEMARK OFFICE

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P.O. Box 1450
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DAVID J COLE
E INK CORPORATION
733 CONCORD AVE
CAMBRIDGE MA 02138-1002

MAILED

NOV 03 2011

OFFICE OF PETITIONS

In re Patent of Zehner et al. :
Patent No. 8,009,348 :
Issue Date: August 30, 2011 : DECISION ON REQUEST
Application No. 11/423,179 : FOR RECONSIDERATION OF
Filed: June 9, 2006 : PATENT TERM ADJUSTMENT
Attorney Docket No. H-398CIP :

This is a decision on the petition filed on October 17, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by four hundred fifty (450) days.

The petition under 37 CFR 1.705(d) is **dismissed**.

The sole issue pertains to the three years to issue guarantee of 35 U.S.C. 154(b)(1)(B) and 37 CFR 1.702(b) (hereinafter, "B delay"). The Office concurs with patentees' assertion that the maximum B delay period begins on June 10, 2009, which is one day after three years after the filing of the application on June 9, 2006, and ends on August 30, 2011, when the patent issued.

However, patentees' determination of the B delay period fails to properly calculate the time excluded from B delay due to appellate review. The period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). An appeal to the Board of Patent Appeals and Interferences commences with the filing of a notice of appeal. See 35 U.S.C. 134(a). Generally, an appeal to the Board of Patent Appeals and Interferences ends with either 1) a Board decision, 2) the examiner reopening prosecution and issuing another Office action, or 3) the applicant filing a request to withdraw the appeal and reopen

prosecution (e.g. the filing of a request for continued examination). In this instance the first period consumed by appellate review is 255 days, beginning on March 24, 2008, the date of filing of the first notice of appeal and ending on December 3, 2008, the subsequent date of the mailing of a non-final Office action. The second period consumed by appellate review is 207 days, beginning on March 9, 2010, the date of filing of the second notice of appeal and ending on October 1, 2010, the subsequent date of the mailing of a non-final Office action.


Thus, B delay is 350 (812 - 255 - 207) days.

It is noted that the Office issued a Notice of proposed rulemaking entitled *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review and Information Disclosure Statements*, 76 FR 18990 (April 6, 2011). To the extent that the final rule on *Revision of Patent Term Extension and Adjustment Provisions Relating to Appellate Review* revises the interpretation of appellate review applied in this decision, Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the date of the final rule to file a request for reconsideration. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). This fee is required and will not be refunded. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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Chrysler Group LLC
CIMS 483-02-19
800 CHRYSLER DR EAST
AUBURN HILLS MI 48326-2757

MAILED
MAR 21 2012
OFFICE OF PETITIONS

In re Application of	:	
Forrest et al.	:	
Application No. 11/423,230	:	DECISION ON PETITION
Filed: June 9, 2006	:	PURSUANT TO
Attorney Docket No.	:	37 C.F.R. § 1.137(B)
706799US2	:	
Title: SYSTEM AND	:	
METHODOLOGY FOR ZERO-GAP	:	
WELDING	:	

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b), filed February 16, 2012, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to a non-final Office action, mailed September 8, 2009, which set a shortened statutory period for reply of three months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application became abandoned on December 9, 2009. A notice of abandonment was mailed on May 3, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in 37 C.F.R. § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply

until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;


- (4) Any terminal disclaimer (and fee as set forth in 37 C.F.R. § 1.20(d)) required pursuant to paragraph (d) of this section.

With this petition, Petitioner has submitted an amendment, the petition fee, and the proper statement of unintentional delay. As such, the first three requirements of Rule 1.137(b) have been met. The fourth requirement of Rule 1.137(b) is not applicable.

The Technology Center will be notified of this decision, and jurisdiction over this application is transferred to the Technology Center, so that the application may receive further processing. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received on February 16, 2012 can be processed in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the present decision to ensure that the revival has been acknowledged by the Technology Center in response to this decision. It is noted that all inquiries with regard to any failure of that change in status should be directed to the Technology Center where that change of status must be effected - **the Office of Petitions cannot effectuate a change of status.**

Telephone inquiries regarding *this* decision should be directed to the undersigned at (571) 272-3225.¹ All other inquiries concerning this application should be directed to the Technology Center.


Paul Shanowski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



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Kumar C. Gopalakrishnan
P.O. Box 2002
Mountain View CA 94042

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of
Kumar C. Gopalakrishnan
Application No. 11/423,257
Filed: June 9, 2006
Attorney Docket No. **GOP-005**

:
:
: **DECISION ON PETITION**
:
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 3, 2010, to revive the above-identified application.

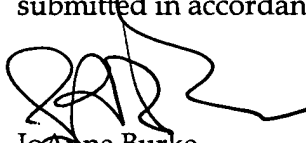
The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 4, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is February 5, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

The petition is hereby **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 2173 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.


JoAnne Burke
Petitions Examiner
Office of Petitions



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MISSION/BSTZ

BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE CA 94085-4040

MAILED

DEC 19 2011

OFFICE OF PETITIONS

In re Application of	:	
Kumar C. Gopalakrishnan	:	
Application No. 11/423,257	:	DECISION ON PETITION
Filed: June 9, 2006	:	
Attorney Docket No. 42P40920X3	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 5, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before October 28, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed July 28, 2011. Accordingly, the date of abandonment of this application is October 29, 2011. A Notice of Abandonment was mailed on November 10, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,740 and the publication fee of \$300, (2) the petition fee of \$1,860, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to the Office of Data Management for further processing into a patent.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions



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RECHES PATENTS
211 North Union St.
Suite 100
Alexandria VA 22314

MAILED
APR 16 2012
OFFICE OF PETITIONS

In re Application of	:	
Shavitt et al.	:	DECISION
Application No. 11/423416	:	ON PETITION
Filing or 371(c) Date: 06/09/2006	:	
Attorney Docket Number:	:	
P-72565-US	:	

This is a decision on the Petition to Revive an Unintentionally Abandoned Application Under 37 C.F.R. § 1.137(b), filed March 8, 2012.

This Petition is hereby **granted**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of February 8, 2011. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is May 9, 2011.

Applicant files the present petition, Notice of Appeal, and Appeal Brief and fees. The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of a Notice of Appeal and fee; (2) the petition fee; and (3) the required statement of unintentional delay. Accordingly, the reply is accepted as having been unintentionally delayed.

Accordingly, the petition is granted. The application is being referred to Technology Center Art Unit 2466 for processing of the brief in support of appeal, filed on March 12, 2012.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **12/07/11**

TO SPE OF : ART UNIT: **3717 Attn: BUMGARNER MELBA N (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/423462** Patent No.: **8038523**

CofC mailroom date: **11/15/2011**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: **Please check Claims 19, 20 & 22**
Should these claims be amended as requested

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____


SPE

3717
Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : **12/07/11**

TO SPE OF : ART UNIT: **3717 Attn: BUMGARNER MELBA N (SPE)**

SUBJECT : Request for Certificate of Correction for Appl. No.: **11/423463** Patent No.: **8038520**

CofC mailroom date: **11/15/2011**

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: **Please check Claims 6 & 7**
Should these claims be amended as requested or not

Tasneem Siddiqui
Certificates of Correction Branch
703-756-1814 & 703-756-1593

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

Melba Bumgarner
SPE

3717
Art Unit



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IBM CORPORATION
LOTUS SOFTWARE
ONE ROGERS STREET
CAMBRIDGE, MA 02142

MAILED

FEB 16 2011

In re Application of
John M. Boyer et al
Application No. 11/423,572
Filed: June 12, 2006
Attorney Docket No. METHOD, SYSTEM, AND
PROGRAM PRODUCT FOR GENERATING AND
VALIDATING DIGITAL SIGNATURES

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed February 16, 2011 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 7, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2433 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

cc: John W. LaBatt
Hoffman Warnick LLP
75 State Street, 14th Floor
Albany, NY 12207

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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FEB 13 2012

OFFICE OF PETITIONS

Pepper Hamilton LLP
50th Floor
One Mellon Center
500 Grant Street
Pittsburgh PA 15219

In re Patent No. 8,097,343 :
Mahmud et al. : DECISION ON REQUEST FOR
Issue Date: January 17, 2012 : RECONSIDERATION OF
Application No. 11/423,580 : PATENT TERM ADJUSTMENT
Filed: June 12, 2006 :
Attorney Docket No. :
120209.03011 :
Title: FUNCTIONALIZED DENDRITIC :
POLYMERS FOR THE CAPTURE AND :
NEUTRALIZATION OF BIOLOGICAL :
AND CHEMICAL AGENTS :

This is a decision on the petition filed on February 6, 2012, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by five hundred sixty-nine (569) days.

The petition to correct the patent term adjustment to indicate five hundred sixty-nine (569) days is **DISMISSED**.

Patentees dispute the 90 day reduction for the submission of replacement drawings pursuant 37 CFR 1.704 (c)(10). Patentees maintain the submission on October 20, 2011 was a response to a Notice to File Corrected Application Papers ("Notice") mailed October 13, 2011. Patentees state the response to the Notice to File Corrected Application Papers does not constitute applicant delay under 37 CFR 1.704(c).

Patentees' argument has been considered but is not persuasive. Patentees acknowledge submitting a declaration and a supplemental application data sheet after the mailing of the notice of allowance. The filing of a declaration and application data sheet after the mailing of a notice of allowance is a basis for reduction of patent term adjustment.

37 CFR § 1.704(c)(10) provides that:

Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

In this instance, it is undisputed that the declaration was filed after the mailing of the notice of allowance. Accordingly, pursuant to § 1.704(c)(10), the patent term adjustment was properly reduced by ninety (90) days beginning on October 20, 2011 and ending on January 17, 2012 when the patent issued.

By Notice entitled *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance*, 1247 OG 111 (June 26, 2001), the Director set forth examples of papers deemed not to cause substantial interference and delay in the patent issue process. Other than those papers identified in this Notice, all papers filed after allowance of an application substantially delay the Office's ability to process an application for a patent because the Office does not wait until payment of the Issue Fee to begin the patent issue process. As a result, 37 CFR 1.704(c)(10) does not distinguish between papers that are and are not required by the Office.

In view thereof, the patent is entitled to an overall adjustment of 479 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District

Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in cursive script, appearing to read "Charlema Grant".

Charlema Grant
Attorney Advisor
Office of Petitions



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AUG 13 2010

Stanley Law Group LLP
6300 Riverside Drive
Dublin, OH 43017

In re Application of
Robert D. Wilson
Application No. 11/423,824
Filed: June 13, 2006
For: SPENDING VEHICLES FOR PAYMENTS

:
:
: RESPONSE TO PETITION
: TO EXPUNGE FILED
: UNDER 37 CFR 1.59(b)
:
:

This is a decision on the petition under 37 CFR 1.59(b), filed September 8, 2009, to expunge information from the above identified application.

The petition is **GRANTED**.

Petitioner requests that the documents subject to a protective order from the United States District Court for the Eastern District of Texas titled "AMENDED PRELIMINARY INVALIDITY CONTENTIONS OF DEFENDANT JACKSON HEWITT TAX SERVICE INC" and "pages FF0000001 - FF0000009, FastFile, Letter and attachments from Randall Klein to Star Motors (Sept. 28, 1996) including FASTFILE FAQ's, FASTFILE Services Agreement and FASTFILE Dealer registration instructions", filed September 8, 2009, be expunged from the record.

A petition under 37 CFR 1.59(b) must contain:

- (A) a clear identification of the information to be expunged without disclosure of the details thereof;
- (B) a clear statement that the information to be expunged is trade secret material, proprietary material, and/or subject to a protective order, and that the information has not been otherwise made public;
- (C) a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (D) a statement that the petition to expunge is being submitted by, or on behalf of, the party in interest who originally submitted the information;
- (E) the fee as set forth in 37 CFR 1.17(g) for a petition under 37 CFR 1.59(b)

The information in question has been determined by the undersigned to not be material to the examination of the instant application.

As the above conditions have been met, the requested material has been expunged. However, the material will not be returned to the applicants. The obligation to return documents was removed from 37 CFR 1.59 (June 30, 2003 Fed Register, Vol. 68, No. 125, 38613). The documents have been closed from the IFW record so as not to be viewable by non-PTO personnel. This decision only applies to this application, and any other applications containing the proprietary information will need to be separately decided.

Any questions regarding this decision should be directed to Alexander Kalinowski at (571) 272-6771.



Wynn Coggins, Director
Patent Technology Center 3600
(571) 272-5350

ak/TL: 8/11/10

72



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PHILIP S. JOHNSON
JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

MAILED

OCT 25 2010

OFFICE OF PETITIONS

In re Application of:	:
John F. Irving	:
Pat. No.: 7,763,027	: ON REQUEST FOR
Issue Date: 07/27/2010	: RECONSIDERATION OF
Application No. 11/423864	: PATENT TERM ADJUSTMENT
Filing or 371(c) Date: 06/13/2006	:
Atty. Docket No.: DEP0687USDIV1	:

This decision is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) WITHIN THREE MONTHS OF RECEIPT OF NOTICE OF ALLOWANCE," filed June 9, 2010. Patentees request that the determination of patent term adjustment be corrected to at least 826 days. The application matured into U.S. Patent No. 7,763,027 on July 27, 2010, and the petition is therefore properly treated under 37 C.F.R. § 1.705(d).

The request is **DISMISSED**.

Patentees are advised that § 1.705(d) provides the avenue before the Office for requesting reconsideration of the patent term adjustment indicated in the patent. See § 1.702-1.705. Moreover, § 1.705(d) provides that:

(d) If there is a revision to the patent term adjustment indicated in the notice of allowance, the patent will indicate the revised patent term adjustment. If the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued and must comply with the requirements of paragraphs (b)(1) and (b)(2) of this section. Any request for reconsideration under this section that raises issues that were raised, or could have been raised, in an application for patent term adjustment under paragraph (b) of this section shall be dismissed as untimely as to those issues.

Paragraph (b)(1) provides that a request for reconsideration of the patent term adjustment must be accompanied by:

(1) The fee set forth in § 1.18(e) ...

The instant request for reconsideration of patent term adjustment failed to include either the fee under § 1.18(e) or a proper general authorization to charge any required fees. Accordingly, the request is dismissed for failure to comply with the requirement of paragraph (d) to submit the fee under §1.18(e).

Patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods at (571) 272-3232.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight
Director
Office of Petitions



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JOHNSON & JOHNSON
ONE JOHNSON & JOHNSON PLAZA
NEW BRUNSWICK NJ 08933-7003

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FEB 10 2011

OFFICE OF PETITIONS

In re Application of	:	DECISION ON REQUEST
John F. Irving	:	FOR RECONSIDERATION OF
Patent Number: 7,763,027	:	PATENT TERM ADJUSTMENT
Issue Date: 07/27/2010	:	and
Application No. 11/423864	:	NOTICE OF INTENT TO ISSUE
Filing or 371(c) Date: 06/13/2006	:	CERTIFICATE OF CORRECTION
Attorney Docket Number:	:	
DEP0687USDIV1	:	

This is a decision on the petition filed on filed November 2, 2010, which is being treated as a petition under 37 CFR 1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by at least eight hundred twenty-six (826) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by at least eight hundred twenty-six (826) days is **GRANTED to the extent indicated herein.**

Applicants provide that depending upon when the patent issued, applicant is entitled to at least 361 days of "B" delay resulting from the application pending longer than three (3) years.

Applicants do not dispute an adjustment of 487 days pursuant to 37 CFR 1.702(a)(1), or a reduction of 22 days¹.

A review of the application file history reveals that the Office errantly neglected to assess a reduction of 11 days in pursuant to pursuant to 37 CFR 1.704(c)(8), in connection with the filing of a supplemental response on December 11, 2009, after filing a response to the non-final Office action on November 30, 2009, and also errantly neglected to assess a reduction of 10 days pursuant to 37 CFR 1.704(c)(10), in connection with the filing of an amendment on June 9, 2010, after the mailing of the Notice of Allowance. The reduction commenced on June 9, 2010, the day the amendment was filed, and ended on June 18, 2010, the date of mailing of the response to the amendment².

¹ Applicant does not provide a basis for the reduction.

² Office records confirm that the Office entered a reduction of six (6) days in connection with the filing of the amendment, errantly ending the reduction on June 15, 2009, the date that Replacement Drawings were filed.

A review of the application file history also confirms that Replacement Drawings were filed in the application on June 15, 2010, after the mailing of the Notice of Allowance. Submission of drawings after the mailing of the Notice of Allowance is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704(c)(10), and a reduction of 43 days, beginning on the day the drawings were filed, and ending on the issue date of the patent, is appropriate.

A further review of the application file history reveals that Office is also properly assessed an adjustment of 95 days pursuant to 37 CFR 1.702(a)(2) in connection with the mailing of the non-final Office action mailed September 1, 2009, in response to Applicant's reply to a Restriction Requirement, filed January 29, 2009. The adjustment of 95 days commenced on the day after the date that is four months after the reply was filed, on May 30, 2009, and ended on the date of mailing of the Office action, September 1, 2009. This reduction overlaps with the reduction pursuant to 37 CFR 1.702(b) for a period of 80 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by eight hundred forty-seven (**847**) days (adjustments of 991 less reductions of 64 days less overlap of 80 days (A&B)).

Telephone inquiries specific to this matter should be directed to Attorney Derek Woods, at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

K&L Gates LLP
P. O. BOX 1135
CHICAGO IL 60690

MAILED
AUG 29 2011
OFFICE OF PETITIONS

In re Application of :
Toyoharu Oohata, et al. :
Application No. 11/424,168 : DECISION GRANTING PETITION
Filed: June 14, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 3712174-00915 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, August 25, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 4, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 2813 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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AUG 02 2010

OFFICE OF PETITIONS

TOWNSEND AND TOWNSEND AND CREW, LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834

In re Application of	:	
Stephen Chin	:	
Application No. 11/424,206	:	DECISION ON PETITION
Filed: June 14, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 02565-015000US	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed June 15, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed applications set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed applications. While a reference to the prior-filed nonprovisional applications was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed applications set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).¹ In the present case, the Office noted

¹ Note MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

the claim for priority to the prior-filed applications in the transmittal letter filed with the application, as shown by their inclusion on the filing receipt.

In view of the above, the \$1410 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to April M. Wise at (571) 272-1642. All other inquiries concerning either the examination procedures or status of the application should be directed to the Office of Data Management at their hotline 571-272-4200.

This application is being referred back to the Office of Data Management for processing into a patent..

/dab/
David Bucci
Petitions Examiner
Office of Petitions



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Pamela R. Crocker
Patent Legal Staff
Eastman Kodak Company
343 State Street
Rochester NY 14650-2201

MAILED

OCT 12 2010

In re Application of	:	OFFICE OF PETITIONS
Kohno, et al.	:	
Application No. 11/424,245	:	ON PETITION
Filed: June 15, 2006	:	
Attorney Docket No. 91121RLO	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2010, to revive the above-identified application.

The petition is GRANTED.

The application became abandoned February 19, 2010 for failure to timely submit an appeal brief within two months of the filing of a Notice of Appeal. Notice of Abandonment was mailed July 20, 2010.

A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by: (1) the required reply to the outstanding Office action or notice, unless previously filed; (2) the petition fee as set forth in 37 C.F.R. § 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 C.F.R. § 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee set forth in 37 C.F.R. § 1.20(d)) required pursuant to 37 C.F.R. § 1.137(c).

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE), including fee and submission required by 37 CFR 1.114; (2) the required petition fee; and (3) a proper statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney or patent agent of record. However, in accordance with 37 CFR 1.34, practitioner's signature appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If practitioner desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted. A courtesy copy of this decision is being mailed to practitioner, the petitioner herein. However, until otherwise instructed, all future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Application No. 11/424,245

This application is being referred to Technology Center AU 2629 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

CC: Mary Jane Boswell
1111 Pennsylvania Ave., NW
Washington, DC 20004



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HUGHES LAW FIRM, PLLC
5160 INDUSTRIAL PLACE, #107
FERNDAL, WA 98248-7819

MAILED

JUL 29 2011

OFFICE OF PETITIONS

In re Application of
John Poppema
Application No. 11/424,335
Filed: June 15, 2006
Attorney Docket No.: P315375PAT

:
:
:
:
:
:

ON PETITION

This is a decision on the petition, filed July 14, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is not signed by a patent practitioner of record in the above-identified application. However, in accordance with 37 CFR 1.34(a), the signature of Dwayne Rogge appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before July 27, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 27, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on July 28, 2010. A Notice of Abandonment was subsequently mailed on August 16, 2010. On July 14, 2011, the present petition was filed.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the \$755 issue fee and the \$300 publication fee; (2) the petition fee of \$810; and (3) an adequate statement of unintentional delay.

The application is being referred to the Office of Data Management to be processed into a patent.

Telephone inquiries related to this decision should be directed to the undersigned at (571) 272-3204. Telephone inquiries related to processing as a patent should be directed to (571) 272-4200.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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E.J. ASBURY III, LLC
1265 LAKE COLONY DR.
MARIETTA GA 30068

MAILED

JAN 07 2011

In re Application of : **OFFICE OF PETITIONS**
Skillen :
Application No. 11/424,721 : **DECISION**
Filed/Deposited: 16 June, 2006 :
Attorney Docket No. S007 P001U1 :

This is a decision on the petition filed on 6 July, 2010, considered as a petition under 37 C.F.R. §1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition under 37 C.F.R. §1.181 is **DISMISSED**.

Any request for reconsideration of this decision or any petition in the alternative is to be filed **within two (2) months** from the mail date of this decision. *Note* 37 C.F.R. §1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 C.F.R. §1.181 to Withdraw the Holding of Abandonment."

This is **not** a final agency action within the meaning of 5 U.S.C. §704.

As to the Request to Withdraw
the Holding of Abandonment

Petitioner is directed to the Commentary at MPEP §711.03(c)(I) for guidance as to the proper showing and timeliness requirements for relief under 37 C.F.R. §1.181.

Petitioner appears not to comply with the guidance in the Commentary at MPEP §711.03(c)(I)—as discussed below, Petitioner has failed to satisfy the showing requirements set forth there. Petitioner may find it beneficial to review that material and move step-wise through that guidance in the effort to satisfy the showing requirements (statements and supporting documentation).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action (copy enclosed) mailed on 4 January, 2010, with reply due absent extension of time on or before 4 April, 2010.

The application went abandoned by operation of law after midnight 4 April, 2010.

It does not appear that the Office mailed the Notice of Abandonment before a petition was filed.

On 6 July, 2010, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.181, averring non-receipt and stating that the Office mailed the 4 January, 2010, Office action to the wrong address. Contrary to Petitioner's averment, the record evidences as follows:

- On deposit of the instant application on 15 June, 2006, Petitioner did not include a cover sheet or an Application Data Sheet (ADS), but only an oath declaration with the following information and instructions:

I hereby appoint the following attorneys and/or agents to prosecute this application and transact all business in the Patent and Trademark Office connected therewith:

E.J. Asbury III Patent Attorney Reg. No. 52570
and every attorney or agent listed under PTO Customer Number 36480

Address all telephone calls to: E.J. Asbury III, Esq. at telephone no. (678) 336-7134

Address all correspondence to:

*E.J. Ashbury III, Esq.
Taylor, Busch, Slipakoff & Duma, LLP
1600 Parkwood Circle, Suite 200
Atlanta, GA 30339 (Emphasis supplied)*

- On 9 July, 2009, the Examiner mailed an Office action to that the 1600 Parkwood Circle address, and Petitioner replied on 13 January, 2009;
- On 20 April, 2009, the Examiner mailed an Office action to the Parkwood Circle Address, and Petitioner replied on 26 October, 2009 (including therewith a Requests for Continued Examination (RCE));

- On 4 January, 2010, the Examiner mailed an Office action to the Parkwood Circle Address, and, as noted above, Petitioner failed to reply;
- On 6 July, 2010, Petitioner filed the instant petition pursuant to 37 C.F.R. §1.181, with a Notice of Change of Address, and within that latter paper Petitioner for the first time expressly designated his Customer Number, 36480, as the Correspondence Address Of Record, to wit:

1265 Lake Colony Dr.
Marietta, GA 30068;

- A review of the 13 January, 2009, reveals that at that early date Petitioner apparently already included the Lake Colony address in his signature block, however, the record does not demonstrate that at any time in that period of 13 January, 2009, through 4 January, 2010, did Petitioner Notice the Office of a change of address to correspond to his Customer Number and/or the Lake Colony address;

The instant petition included none of the showing statements/documentation required under the Rule as those requirements are expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I) requiring: a copy of the firm due-date docket/calendar and a copy of the docket sheet (or file jacket cover) for the instant application and; recitations as to a statement of non-receipt "at the correspondence address of record," a statement of search of the file and non-discovery, a description of the docketing system, a statement of system reliability, and such requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I).

Petitioner is directed to in the guidance in the Commentary at MPEP §711.03(c)(I), which provides in pertinent part:

The showing required to establish nonreceipt of an Office communication must include a statement from the practitioner describing the system used for recording an Office action received at the correspondence address of record with the USPTO. The statement should establish that the docketing system is sufficiently reliable. It is expected that the record would include, but not be limited to, the application number, attorney docket number, the mail date of the Office action and the due date for the response.

Practitioner must state that the Office action was not received at the correspondence address of record, and that a search of the practitioner's record(s), including any file jacket or the equivalent, and the application contents, indicates that the Office action was not received. A copy of the record(s) used by the practitioner where the non-received Office action would have been entered had it been received is required.

A copy of the practitioner's record(s) required to show non-receipt of the Office action should include the master docket for the firm. That is, if a three month period for reply was set in the nonreceived Office action, a copy of the master docket report showing all replies docketed for a date three months from the mail date of the nonreceived Office action must be submitted as documentary proof of nonreceipt of the Office action. If no such master docket exists, the practitioner should so state and provide other evidence such as, but not limited to, the following: the application file jacket; incoming mail log; calendar; reminder system; or the individual docket record for the application in question.¹ (Emphasis supplied.)

On any renewed petition, Petitioner must comply with the required showing expressly set forth in the guidance in the Commentary at MPEP §711.03(c)(I)—as highlighted above for Petitioner's reference.

However, Petitioner may not be able to satisfy those requirements.

In such case, Petitioner may alternatively chose to present a petition pursuant to 37 C.F.R. §1.137(b) with fee, reply, and statement of unintentional delay. (Applicants/Petitioners always are cautioned that the conditions of their failure to reply timely and properly to an Office action, including a decision on petition, may be considered *indicia* of intentional delay.)

Out of an abundance of caution, Petitioners always are reminded that the filing of a petition under 37 C.F.R. §1.181 does not toll any periods that may be running any action by the Office and a petition seeking relief under the regulation must be filed within two (2) months of the act complained of (*see*: 37 C.F.R. §1.181(f)), and those registered to practice and all others who make representations before the Office are reminded to inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.²

Petitioner is requested to review the requirements as set forth in the guidance in the Commentary at MPEP 711.03(c)(I), and then seek to satisfy those requirements. Alternatively, Petitioner may file a petition to revive pursuant to the regulations at 37 C.F.R. §1.137(b).

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

¹ See: MPEP §711.03(c)(I)(A).

² See supplement of 17 June, 1999. The Patent and Trademark Office is relying on Petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

Application No. 11/424,721

STATUTES, REGULATIONS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).

Allegations as to the Request to Withdraw the Holding of Abandonment

The guidance in the Commentary at MPEP §711.03(c)(I) specifies the showing required and how it is to be made and supported.

Petitioner appears not to have made the showing required.

CONCLUSION

Accordingly, The petition under 37 C.F.R. §1.181 is **dismissed**.

ALTERNATIVE VENUE

Should Petitioner wish to revive the application, Petitioner may wish to properly file a petition to the Commissioner requesting revival of an application abandoned due to unintentional delay under 37 C.F.R. §1.137(b). (See: http://www.uspto.gov/web/offices/pac/mpep/documents/0700_711_03_c.htm#sect711.03c)

A petition to revive on the grounds of unintentional delay must be filed promptly and such petition must be accompanied by the reply, the petition fee, a terminal disclaimer and fee where appropriate and a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional." (The statement is in the form available online.)

Further correspondence with respect to this matter should be addressed as follows:

Application No. 11/424,721

By Mail: Mail Stop PETITION
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
Customer Service Window, Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By facsimile: (571) 273-8300
Attn: Office of Petitions

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2³) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

³ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

April 26, 2011

Michael J. Atkins
Johnson & Johnson
One Johnson & Johnson Plaza
New Brunswick, NJ 08933-7003

Patent No: 7,754,882 B2
Application No: 11/424,734
Applicant: Richard Apodaca, et al.
Issued: July 13, 2010
Title: **HEXAHYDRO-PYRROLO-ISOQUINOLINE COMPOUNDS**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322.

While your request provides the information as to the column and line number, it is unclear what the error is at this location. Please specify what is wrong.

In view of the foregoing your request in these matters are hereby **denied**.

Further correspondence concerning this matter should be directed to Decisions and Certificate of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460

vt

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket

Number: 16359-0056001

Application

Number: 11/424,786

Filing Date

(or 371(b) or (f) Date): June 16, 2006

Patent Number:

7,655,101

Issue Date:

February 16, 2010

First Named

Inventor: Chikashi Yoshinaga

Title:

OPTICAL PICKUP APPARATUS

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Marie Smyth, Reg. No. 65,404/

Date August 3, 2010

Name:

(Print/Type) Marie Smyth

Registration Number: 65,404

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

☐ *Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

FISH & RICHARDSON P.C.
P.O. BOX 1022
MINNEAPOLIS, MN 55440-1022

Mail Date: 08/11/2010

Applicant	: Chikashi Yoshinaga	: DECISION ON REQUEST FOR
Patent Number	: 7665101	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/424,786	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **749** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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FISH & RICHARDSON P.C. (DC)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED
JAN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,665,101 :
Issue Date: February 16, 2006 :
Application No. 11/424,786 : DECISION ON PETITION
Filed: June 16, 2006 :
Attorney Docket No. 16359-056001 /1091/SM :

This is a decision on the Petition to Expunge Information, filed November 29, 2010 which is being treated as a petition under 37 CFR 1.59(b) to expunge information from the above identified application.

The petition is **dismissed** to the extent indicated below.

Petitioner requests that Request for Certificate of Correction, filed on September 1, 2010, be expunged from the record. Petitioner states this paper was filed in the wrong application.

In regard to the requirements for a petition to expunge information filed unintentionally, MPEP 724.05(II) states in part:

II. INFORMATION UNINTENTIONALLY SUBMITTED IN APPLICATION

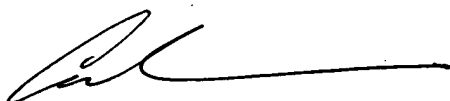
A petition to expunge information unintentionally submitted in an application (other than information forming part of the original disclosure) may be filed under 37 CFR 1.59(b), provided that:

(A) the Office can effect such return prior to the issuance of any patent on the application in issue;

The condition set forth in item (A) cannot be met since the patent has issued.

However, in accordance with MPEP 724.05(III), no petition is needed since the papers in question were clearly identified for a different application. The Request for Certificate of Correction filed September 1, 2010 has been removed from the official file. The petition fee is refunded to petitioner's deposit account.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

A handwritten signature in black ink, appearing to be 'Carl Friedman', with a long horizontal stroke extending to the right.

Carl Friedman
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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PATTERSON & SHERIDAN, L.L.P.
3040 POST OAK BOULEVARD
SUITE 1500
HOUSTON, TX 77056

MAILED

JAN 31 2011

OFFICE OF PETITIONS

In re Application of
Karl Gross
Application No.: 11/424,867
Filed: June 17, 2006
Attorney Docket No.: FLC/0003

ON PETITION

This is a decision on the petition, filed January 26, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 17, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2856 for further processing of the request for continued examination pursuant to 37 CFR 1.114.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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OFFICE OF PETITIONS

**INTEGRAL INTELLECTUAL PROPERTY INC.
1370 DON MILLS ROAD, SUITE 300
TORONTO ON M3B 3N7 CA
CANADA**

In re application of
Terence Douglas Todd et al
Application No. 11/424,927
Filed: June 19, 2006
Attorney Docket No. RIM055-02US

:
:
:
: DECISION ON PETITION AND
: REQUEST FOR REFUND
:

This is a decision on the petition under 37 CFR 1.182, filed August 9, 2010, requesting issuance of a duplicate Letters Patent for the above-identified patent. This is also a decision on the Request for Refund filed August 23, 2010.

The petition under 37 CFR 1.182 is **DISMISSED** as Moot.

The petition filed August 9, 2010, requesting duplicate Letters Patent is dismissed as moot in view of the request for refund filed August 23, 2010, requesting a refund of the petition fee (\$400.00) and to cancel the petition filed August 9, 2010.

The petition fee is being credited to petitioner's credit card account, as it is the method in which the fee was paid.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

/koc/
Karen Creasy
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: TI-60874

Patent Number: 7,660,229

Filing Date
(or 371(b) or (f) Date): 06-19-2006

Issue Date: 02/09/2010

First Named
Inventor: Aris Papasakellariou

Title: PILOT DESIGN AND CHANNEL ESTIMATION

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /

Date August 2, 2010

Name
(Print/Typed) Wade J. Brady III

Registration Number 32,080

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/11/2010

Applicant	: Aris Papasakellariou	: DECISION ON REQUEST FOR
Patent Number	: 7660229	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/424,939	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **748** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: Bachl 23-23-23 (RW)-US-NP

Patent Number: 7,664,467

Filing Date
(or 371(b) or (f) Date): June 19, 2006

Issue Date: February 16, 2010

First Named
Inventor: Fang-Chen Cheng

Title: Method for coordinated control of radio resources for multicasting in a distributed wireless system

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Gregory J. Murgia/

Date August 10, 2010

Name
(Print/Typed) Gregory J. Murgia

Registration Number 41,209

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

☒ *Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 09/03/2010

Applicant	: Fang-Chen Cheng	: DECISION ON REQUEST FOR
Patent Number	: 7664467	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/424,947	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **826** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

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U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: **TI-60110**

Patent Number: **7,663,379**

Filing Date
(or 371(b) or (f) Date): **06-19-2006**

Issue Date: **02/16/2010**

First Named
Inventor: **OLIVER NEHRIG**

Title: **CAPACITANCE-TO-VOLTAGE CONVERSION METHOD AND APPARATUS**

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / **Wade J. Brady III /**

Date **August 2, 2010**

Name
(Print/Typed) **Wade J. Brady III**

Registration Number **32,080**

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/12/2010

Applicant	: OLIVER NEHRIG	: DECISION ON REQUEST FOR
Patent Number	: 7663379	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/425,013	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **912** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/425,021	06/19/2006	Donald L. Smith	GCSD 1755 (17327US01)	8557
77803 7590 08/03/2010 HARRIS CORPORATION C/O MCANDREWS HELD & MALLOY 500 WEST MADISON CHICAGO, IL 60661			EXAMINER HOM, SHICK C	
			ART UNIT 2471	PAPER NUMBER
			MAIL DATE 08/03/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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HARRIS CORPORATION
C/O MCANDREWS HELD & MALLOY
500 WEST MADISON
CHICAGO IL 60661

MAILED

AUG 03 2010

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

In re Application of: ASMITH, DONALD L. et al.
Application No. 11425021
Filed: June 19, 2006
For: METHOD AND SYSTEM FOR FAULT-TOLERANT
QUALITY OF SERVICE

DECISION ON PETITION UNDER
37 C.F.R. § 1.181

This is a decision on the petition filed July 1, 2010, under 37 CFR § 1.181, to invoke Supervisory Authority of the Director and require the Examiner to withdraw the finality of the rejection mailed May 6, 2010.

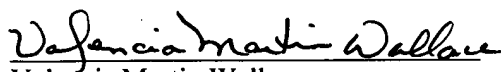
Applicant's counsel filed a petition to the Director under 37 CFR § 1.181 to seek relief from actions of the Examiner in relation to the final Office action mailed May 6, 2010. In the petition, Applicant's counsel stated that the finality of the Office action was premature and should be withdrawn because the Examiner introduced a new ground of rejection in the Final Office Action that was neither necessitated by applicant's amendment of the claims nor based on information submitted in an Information Disclosure Statement. The petitioner alleges that in the final Office Action, claims 19-20 were rejected under 35 U.S.C. § 101, and that the non-final Office Action mailed November 19, 2009 did not reject Applicant's claims 19-20 under 35 U.S.C. § 101. Applicant also alleges that Applicant's previous response did not amend independent claim 19 and that the amendment of claim 20 did not cause Applicant's claim 20 to change from a statutory claim to a non-statutory claim under 35 U.S.C. § 101.

A review of the file indicates that no IDS was submitted to cause the new grounds of rejection and that the amendment filed on February 18, 2010 did not cause a change in patent eligibility of claims 19 and 20. Therefore, the finality of the Office action mailed on May 6, 2010 is hereby withdrawn.

The petition is **GRANTED**.

The period for response continues to run from May 6, 2010.

Any inquiry concerning this decision should be directed to Hassan Kizou at (571) 272-3088.


Valencia Martin Wallace
Director
Technology Center 2400



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No : 7,770,019 B2
Ser. No. : 11/425,137
Inventor(s) : Donald Martin Monro
Issued : August 3, 2010

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request in this matter is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, , no additional fee is required.

A certificate of correction will issue to correct the remaining errors noted in your request.

Eva James
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-3422 or 703- 756 -1580

Sterne, Kessler, Goldstein & Fox P.L.L.C.
1100 New York Avenue, NW
Washington, DC 20005-3934

ej

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number:

TI-60877

Patent Number: 7,668,564

Filing Date

(or 371(b) or (f) Date): 06-20-2006

Issue Date: 02/23/2010

First Named
Inventor:

Eko N. Onggosanusi

Title: SLOW UPLINK POWER CONTROL

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /

Date August 12, 2010

Name
(Print/Typed)

Wade J. Brady III

Registration Number 32,080

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/20/2010

Applicant	: Eko N. Onggosanusi	: DECISION ON REQUEST FOR
Patent Number	: 7668564	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/425,202	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **760** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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CALFEE, HALTER & GRISWOLD, LLP
800 SUPERIOR AVENUE
SUITE 1400
CLEVELAND, OH 44114

Mail Date: 10/20/2010

Applicant	: Jeffrey R. Shutic	: DECISION ON REQUEST FOR
Patent Number	: 7665414	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/425,233	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/20/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **774** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: TI-60856

Patent Number: 7,668,232

Filing Date
(or 371(b) or (f) Date): 06-21-2006

Issue Date: 02/23/2010

First Named
Inventor: Dilip G. Warriar

Title: SYSTEM AND METHOD TO DETERMINE POWER CUTBACK IN COMMUNICATION SYSTEMS

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /

Date August 12, 2010

Name
(Print/Typed) Wade J. Brady III

Registration Number 32,080

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/18/2010

Applicant	: Dilip G. Warriier	: DECISION ON REQUEST FOR
Patent Number	: 7668232	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/425,429	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/21/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **864** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/425,451	06/21/2006	Makoto Ishida	1720.1030	9305
21171 7590 07/22/2011 STAAS & HALSEY LLP SUITE 700 1201 NEW YORK AVENUE, N.W. WASHINGTON, DC 20005				
			EXAMINER DESIRE, GREGORY M	
			ART UNIT 2624	PAPER NUMBER
			MAIL DATE 07/22/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON DC 20005

Application No.: 11425451 :
Filed: 06/21/2006 : **DECISION ON PETITION**
Patent Number: 7,925,063 :
Issue Date: 04/12/11 :
Attorney Docket No. 1720.1030 :

This is a decision on the Petition filed under 37 CFR 1.181 received in the United States Patent and Trademark Office (USPTO) on July 14, 2011. Petitioner seeks relief from filing a Petition for Duplicate Letters Patent in this application due to the non-receipt of a large number of Patent Grants in the April 12, 2011 issue.

The Petition is **GRANTED**.

Petitioner submitted a statement that the Patent Grant was not received at the correspondence address of record; that a search of records did not indicate receipt; and that the docketing system is sufficiently reliable. Petitioner filed a copy of the docketing records showing receipts dates and application history as evidence.

Therefore, the Office of Data Management will provide one additional Original Letters Patent for this application.

Telephone inquiries relating to this matter may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Kimberly Terrell/
Manager
Office of Data Management
Patent Publication Branch



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WHITE-WELKER & WELKER, LLC
P.O. BOX 199
CLEAR SPRING MD 21722-0199

MAILED

SEP 12 2011

OFFICE OF PETITIONS

In re Application of	:	
Harry ENGEL	:	
Application No. 11/425,518	:	DECISION ON PETITION
Filed: June 21, 2006	:	
Attorney Docket No. US2006-1077	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 1, 2011, to revive the above-identified application.


The petition is **GRANTED**.

The application became abandoned for failure to submit formal drawings in a timely manner in reply to the Notice of Allowability, mailed January 12, 2011, which set a period for reply of three (3) months. Accordingly, this application became abandoned on April 13, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of the corrected formal drawings; (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay. Accordingly, the corrected formal drawings are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to Office of Data Management.


Michelle R. Eason
Paralegal Specialist
Office of Petitions



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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

JUN 07 2011

In re Application of
Rofougaran
Application No. 11/425,558
Filed: 21 June, 2006
Attorney Docket No.: 17112US02

OFFICE OF PETITIONS

**DECISION
ON PETITION**

This is a decision on the petition pursuant to 37 C.F.R. §1.78(a)(3), filed on 26 January, 2011, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed application.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority pursuant to 37 C.F.R. §1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 C.F.R. §1.78(a)(2)(ii). In addition, the petition under 37 C.F.R. §1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. §120 and 37 C.F.R. §1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in 37 C.F.R. §1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 C.F.R. §1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. §120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 C.F.R. 1.78(a)(3) should not be construed as meaning that the application is entitled to the benefit of the prior-filed application. In order for the application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §§ 120 and 37

Application No. 11/425,558

C.F.R. 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed application should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed application noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed application(s), accompanies this decision on petition.

This application is being forwarded to the examiner of Technology Center/AU 2618 for consideration of applicant's entitlement to claim benefit of priority under 35 U.S.C. §120 to the above-noted, prior-filed applications.

Any questions concerning this decision on petition may be directed to John J. Gillon, Jr. attorney, at (571) 272-3214. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.



Anthony Knight
Director, Office of Petitions
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/425,558	06/21/2006	2618	1050	17112US02	21	3

CONFIRMATION NO. 9444

CORRECTED FILING RECEIPT



0C000000048044304

23446
MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO, IL 60661

Date Mailed: 06/06/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Ahmadreza Rofougaran, Newport Coast, CA;

Power of Attorney: The patent practitioners associated with Customer Number 23446

Domestic Priority data as claimed by applicant

This application is a CIP of 11/286,555 11/22/2005
which claims benefit of 60/685,239 05/26/2005

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)

If Required, Foreign Filing License Granted: 07/07/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/425,558**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

METHOD AND SYSTEM FOR BLUETOOTH AND FM RADIO COMMUNICATION

Preliminary Class

455

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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WONG, CABELLO, LUTSCH,
RUTHERFORD & BRUCCULERI, LLP
20333 SH 249 6th Floor
HOUSTON TX 77070

MAILED

MAY 06 2011

OFFICE OF PETITIONS

In re Application of :
Jin :
Application No. 11/425,699 : ON APPLICATION FOR
Filed: June 21, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 218-0006US :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT, filed March 25, 2011. Applicant disputes the period of reduction of 25 days entered for the purported filing of an Information Disclosure Statement (IDS) on July 28, 2009.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment determination at the time of the mailing of the Notice of Allowance is five hundred ninety-one (591) days. A copy of the updated PAIR screen, showing the determination, is enclosed.

On March 7, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 566 days. Applicant disputes the reduction of 25 days associated with the purported filing of an Information Disclosure Statement (IDS) on July 28, 2009.

Applicant's argument with respect to the Information Disclosure Statement purportedly filed on July 28, 2009 has been considered and found persuasive. A review of the image file wrapper of this application reveals that no correspondence was filed on July 28, 2009. As such, entry of a period of reduction of 25 days is not warranted and will be removed.

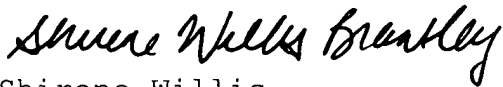
In view thereof, the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is five hundred ninety-one (591) days.

The Office acknowledges receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.



Shirene Willis
Senior Petitions Attorney
Office of Petitions

Enclosure: Updated PAIR calculation - Application No. 11/425,699



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11/425,699	SCALABLE SENSOR LOCALIZATION FOR WIRELESS SENSOR NETWORKS					
Select New Case	Application Data	Transaction History	Image/File Wrapper	Patent Term Adjustments	Continuity Data	Published Documents/Attorney/Agent

Patent Term Adjustment

Filing or 371(c) Date:	06-21-2006	Overlapping Days Between {A and B} or {A and C}:	0
Issue Date of Patent:	-	Non-Overlapping USPTO Delays:	591
A Delays:	591	PTO Manual Adjustments:	25
B Delays:	0	Applicant Delays:	25
C Delays:	0	Total PTA Adjustments:	591

Patent Term Adjustment History Explanation Of Calculations

Number	Date	Contents Description	PTO (Days)	APPL (Days)	Start
71	05-06-2011	Adjustment of PTA Calculation by PTO	25		0
66	03-07-2011	Mail Notice of Allowance			55
65	03-04-2011	Notice of Allowance Data Verification Completed			0
64	03-04-2011	Issue Revision Completed			0
63	02-14-2011	Examiner Interview Summary Record (PTOL - 413)			0
62	03-04-2011	Examiner's Amendment Communication			0
61	02-28-2011	Document Verification			0
60	02-28-2011	Allowability Notice			0
58	11-17-2010	Date Forwarded to Examiner			0
57	11-10-2010	Appeal Brief Filed			0
56	11-12-2010	Appeal Brief Review Complete			0
55	11-10-2010	Notice of Appeal Filed			0
54	09-27-2010	Mail Final Rejection (PTOL - 326)			0
53	09-24-2010	Final Rejection			0
52	07-15-2010	Date Forwarded to Examiner			0
51	07-13-2010	Response after Non-Final Action			0
50	04-23-2010	Mail Non-Final Rejection			0
49	04-22-2010	Non-Final Rejection			0
48	02-22-2010	Date Forwarded to Examiner			0
47	01-26-	Response after Non-Final Action			0

	2010			
46	10-26-2009	Mail Non-Final Rejection		0
45	10-26-2009	Non-Final Rejection		0
44	07-02-2009	Information Disclosure Statement considered		0
43	08-20-2009	Case Docketed to Examiner in GAU		0
42	07-28-2009	Date Forwarded to Examiner		0
41	07-03-2009	Response after Non-Final Action		0
40	07-28-2009	Electronic Information Disclosure Statement	25	41
39	07-02-2009	Information Disclosure Statement (IDS) Filed		0
38	04-03-2009	Mail Non-Final Rejection	591	0.5
37	04-02-2009	Non-Final Rejection		0
23	02-10-2009	Case Docketed to Examiner in GAU		0
22	01-26-2009	Case Docketed to Examiner in GAU		0
21	11-12-2008	Case Docketed to Examiner in GAU		0
20	09-12-2008	Case Docketed to Examiner in GAU		0
19	08-07-2008	Transfer Inquiry to GAU		0
18	03-05-2008	Case Docketed to Examiner in GAU		0
17	02-13-2008	Transfer Inquiry to GAU		0
16	01-04-2008	Case Docketed to Examiner in GAU		0
15	12-20-2007	Case Docketed to Examiner in GAU		0
14	12-19-2007	Transfer Inquiry to GAU		0
13	08-22-2007	Transfer Inquiry to GAU		0
12	01-04-2007	PG-Pub Issue Notification		0
11	09-01-2006	IFW TSS Processing by Tech Center Complete		0
10	08-24-2006	Request for Refund		0
9	07-24-2006	Application Return from OIPE		0
8	07-24-2006	Application Is Now Complete		0
7	07-24-2006	Application Return TO OIPE		0
6	07-21-2006	Application Dispatched from OIPE		0
5	07-24-2006	Application Is Now Complete		0
4	07-19-2006	Cleared by L&R (LARS)		0

3	07-03-2006	Referred to Level 2 (LARS) by OIPE CSR	0
2	06-25-2006	IFW Scan & PACR Auto Security Review	0
1	06-21-2006	Initial Exam Team nn	0
0.5	06-21-2006	Filing date	0

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2 EAST MIFFLIN STREET
SUITE 600
MADISON WI 53703-2865

MAILED

SEP 28 2010

OFFICE OF PETITIONS

In re Application of	:	
Dae Up SOHN	:	
Application No. 11/426,022	:	NOTICE UNDER 37 CFR. 1.28(c)
Patent No. 7,163,309	:	
Filed: June 23, 2006	:	
Attorney Docket No. 32585001	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to Michelle R. Eason at (571) 272-4231.

Thurman K. Page
Petitions Examiner
Office of Petitions



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GEORGE R. CORRIGAN
CORRIGAN LAW OFFICE
2168 COLLADAY POINT DRIVE
STOUGHTON WI 53589

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of
Huisman, et al.
Application No. 11/426,063
Filed/Deposited: 26 April, 2006
Attorney Docket No. 0137.00004

:
:
: DECISION
:
:
:

This is a decision on the petition filed on 7 January, 2011, pursuant to 37 C.F.R. §1.137(b) for revival of an application abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee

Petitioners' attentions always are directed to the guidance in the Commentary at MPEP §711.03(c)(II).

BACKGROUND

The record reflects as follows:

Petitioner failed to reply timely and properly to the non-final Office action mailed on 14 May, 2010, with reply due absent extension of time on or before 14 August, 2010.

The application went abandoned by operation of law after midnight 14 August, 2010.

The Office mailed the Notice of Abandonment on 9 December, 2010.

On 7 January, 2011, Petitioner filed, *inter alia*, a petition pursuant to 37 C.F.R. §1.137(b), with fee, a reply in the form of an amendment, and made a statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).²

The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and, by definition, are not intentional.³))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

¹ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See Changes to Patent Practice and Procedure, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

² 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

³ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3742 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁴) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁴ The regulations at 37 C.F.R. §1.2 provide:
§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 07/31/2010. OMB 0651-0020

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Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: 076553.0103

Application
Number: 11/426116

Filing Date
(or 371(b) or (f) Date): June 23, 2006

Patent Number: 7667344

Issue Date: February 23, 2010

First Named
Inventor: Brent R. Zitting et al.

Title: Coupling Communications Signals to Underground Power Lines

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature

Date

Name
(Print/Typed) Barton E. Showalter

Registration Number 38302

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Mail Date: 09/07/2010

Applicant	: Brent R. Zitting	: DECISION ON REQUEST FOR
Patent Number	: 7667344	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/426,116	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **79** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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AUG 27 2010

OFFICE OF PETITIONS

In re Application of	:	
Dunmire, et al.	:	
Application No. 11/426,206	:	DECISION
Filed/Deposited: 23 June, 2006	:	
Attorney Docket No. 20103/IT1124	:	

This is a decision on the petition filed on 29 June, 2010, to revive an application under 37 C.F.R. §1.137(b) as having been abandoned due to unintentional delay.

The petition under 37 C.F.R. §1.137(b) is **GRANTED**.

As to the Allegations
of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement and/or showing of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

BACKGROUND

The record reflects as follows:

Applicant failed to reply timely and properly to the non-final Office action mailed on 9 December, 2009, with reply due absent extension of time on or before 9 March, 2010.

The application went abandoned by operation of law after midnight 9 March, 2010.

The Office mailed a Notice of Abandonment on 24 June, 2010.

Application No. 11/426,206

On 29 June, 2010, Petitioner/Counsel filed, *inter alia*, a petition (with fee) pursuant to 37 C.F.R. §1.137(b), averring unintentional delay, with reply in the form of an amendment, and made the statement of unintentional delay.

The availability of applications and application papers online to applicants/practitioners who diligently associate their Customer Number with the respective application(s) now provides an applicant/practitioner on-demand information as to events/transactions in an application.

Out of an abundance of caution, Petitioners always are reminded that those registered to practice and all others who make representations before the Office **must** inquire into the underlying facts of representations made to the Office and support averments with the appropriate documentation—since all owe to the Office the continuing duty to disclose.¹

STATUTES, REGULATIONS AND ANALYSIS

Congress has authorized the Commissioner to "revive an application if the delay is shown to the satisfaction of the Commissioner to have been "unavoidable." 35 U.S.C. §133 (1994).² The regulations at 37 C.F.R. §1.137(a) and (b) set forth the requirements for a Petitioner to revive a previously unavoidably or unintentionally, respectively, abandoned application under this congressional grant of authority.

Unintentional delays are those that do not satisfy the very strict statutory and regulatory requirements of unavoidable delay, and also, by definition, are not intentional.³))

As to Allegations of Unintentional Delay

The requirements of a grantable petition pursuant to 37 C.F.R. §1.137(b) are the petition and fee therefor, a reply, a proper statement of unintentional delay under the regulation, and, where applicable, a terminal disclaimer and fee.

¹ See supplement of 17 June, 1999. The Patent and Trademark Office is relying on petitioner's duty of candor and good faith and accepting a statement made by Petitioner. See *Changes to Patent Practice and Procedure*, 62 Fed. Reg. at 53160 and 53178, 1203 Off. Gaz. Pat. Office at 88 and 103 (responses to comments 64 and 109)(applicant obligated under 37 C.F.R. §10.18 to inquire into the underlying facts and circumstances when providing statements to the Patent and Trademark Office).

² 35 U.S.C. §133 provides:

35 U.S.C. §133 Time for prosecuting application.

Upon failure of the applicant to prosecute the application within six months after any action therein, of which notice has been given or mailed to the applicant, or within such shorter time, not less than thirty days, as fixed by the Commissioner in such action, the application shall be regarded as abandoned by the parties thereto, unless it be shown to the satisfaction of the Commissioner that such delay was unavoidable.

³ Therefore, by example, an unintentional delay in the reply might occur if the reply and transmittal form are to be prepared for shipment by the US Postal Service, but other pressing matters distract one's attention and the mail is not timely deposited for shipment.

It appears that the requirements under the rule have been satisfied.

CONCLUSION

Accordingly, the petition pursuant to 37 C.F.R. §1.137(b) is **granted**.

The instant application is released to the Technology Center/AU 3622 for further processing in due course.

Petitioner may find it beneficial to view Private PAIR within a fortnight of the instant decision to ensure that the revival has been acknowledged by the TC/AU in response to this decision. It is noted that all inquiries with regard to status need be directed to the TC/AU where that change of status must be effected—that does not occur in the Office of Petitions.

Telephone inquiries regarding this decision may be directed to the undersigned at (571) 272-3214—it is noted, however, that all practice before the Office is in writing (see: 37 C.F.R. §1.2⁴) and the proper authority for action on any matter in this regard are the statutes (35 U.S.C.), regulations (37 C.F.R.) and the commentary on policy (MPEP). Therefore, no telephone discussion may be controlling or considered authority for Petitioner's action(s).



/John J. Gillon, Jr./
John J. Gillon, Jr.
Senior Attorney
Office of Petitions

⁴ The regulations at 37 C.F.R. §1.2 provide:

§1.2 Business to be transacted in writing.

All business with the Patent and Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.



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Suite 400 East
Washington, DC 20005-1503

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APR 12 2011

OFFICE OF PETITIONS

In re Application of
Gholam A. Peyman
Application No. 11/426,224
Filed: June 23, 2006
Attorney Docket No. 2009_0603

:
:
: DECISION ON PETITION
: TO MAKE SPECIAL UNDER
: 37 CFR 1.102(c)(1)

This is a decision on the petition under 37 CFR 1.102(c)(1), filed March 4, 2011, to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

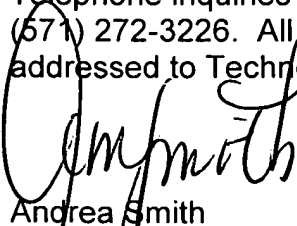
The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1) and MPEP § 708.02, Section IV: Applicant's Age must be accompanied by evidence showing that at least one of the applicants is 65 years of age, or more, such as a birth certificate or a statement by applicant. No fee is required.

The instant petition includes a statement from the sole inventor that he is 65 years of age or older. Accordingly, the above-identified application has been accorded "special" status.

This application file is being referred to Technology Center Art Unit 3738 for examination in accordance with this decision.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226. All other inquiries concerning the processing of the application should be addressed to Technology Center 3700 at (571) 272-3700.


Andrea Smith
Petitions Examiner
Office of Petitions



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1621 EUCLID AVENUE
NINETEENTH FLOOR
CLEVELAND OH 44115

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DEC 30 2010

OFFICE OF PETITIONS

In re Application of
Darwin Chang et al.
Application No. 11/426,254
Filed: October 4, 2006
Attorney Docket No: WEDEP0111 USA

ON PETITION

This is a decision on the petition filed December 8, 2010 under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 18, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned September 21, 2009. Accordingly, a Notice of Abandonment was mailed January 22, 2010.

This matter is being referred to Technology Center 2835 for appropriate action on the amendment filed December 8, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.

Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).



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600 NORTH US HIGHWAY 45
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LIBERTYVILLE, IL 60048-5343

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OFFICE OF PETITIONS

In re Application of :
Michael D. KOTZIN :
Application No. 11/426,452 : **DECISION ON PETITION**
Filed: June 26, 2006 :
Attorney Docket No. CS10466 :

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed August 16, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, December 3, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on March 4, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2617 for appropriate action by the Examiner in the normal course of business.

/DCG/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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Paper No.

K&L Gates LLP
P.O. Box 1135
CHICAGO IL 60690

MAILED

JUN 07 2011

OFFICE OF PETITIONS

In re Patent No. 7,914,376 : DECISION ON REQUEST
Walker et al. : FOR
Issue Date: March 29, 2011 : RECONSIDERATION OF
Application No. 11/426,457 : PATENT TERM ADJUSTMENT
Filed: June 26, 2006 : and
Atty Docket No. 3718582-00114 : NOTICE OF INTENT TO ISSUE
: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on May 25, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred sixty-five (665) days. Patentee, in part, asserts that the calculation of B delay of 641 days is incorrect.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted by six hundred sixty-five (665) days is **GRANTED**.

The \$200.00 fee set forth in 37 CFR 1.18(e) is being charged to the Deposit Account, as authorized. No additional fees are required.

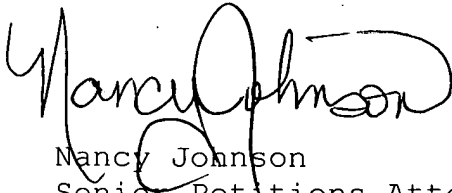
The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **six hundred sixty-five (665) days**.

Patent No. 7,914,376

Application No. 11/426,457

Page 2

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with a large loop at the end of the last name.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,914,376 B2

DATED : March 29, 2011

DRAFT

INVENTOR(S) : Walker et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 872 days

Delete the phrase "by 872 days" and insert – by 665 days--



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Paper No.

BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE WI 53203

MAILED

JAN 04 2011

OFFICE OF PETITIONS

In re Application of :
Feinstein et al. : DECISION ON PETITION
Application No. 11/426,461 :
Filed: June 26, 2006 :
Atty Docket No. 528.202 :

This is a decision on the RENEWED PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed November 15, 2010.

The petition is **DISMISSED** without consideration on the merits.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 C.F.R. § 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 C.F.R. § 1.137(b)."

The above-identified application became abandoned effective February 24, 2008 for failure to reply in a timely manner to the final Office action mailed November 23, 2007. By decision mailed June 23, 2010, the initial petition under 37 CFR 1.137(b) was dismissed for failure to submit the required reply.

The renewed petition as filed is not acceptable. The existing text of a form, other than a certification statement, may be modified, deleted, or added to, if all text identifying the form as an Office form is removed. It appears that Petitioner has modified form PTO/SB/64 to add the word "RENEWED." Although the language of the form was modified, Petitioner did not remove the text identifying the form as an Office form. Thus, the form as filed is unacceptable.

The instant petition may be reconsidered upon the filing of a petition in the proper form. Petitioner is reminded that the filing of any renewed petition based on unintentional delay should not be intentionally delayed. See MPEP 711.03(c).

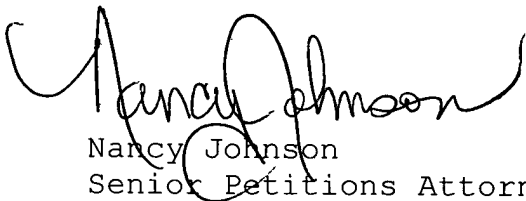
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By fax: (571) 273-8300
 ATTN: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson", is written over the typed name and title.

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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Paper No.

BOYLE FREDRICKSON S.C.
840 North Plankinton Avenue
MILWAUKEE WI 53203

MAILED

MAR 29 2011

OFFICE OF PETITIONS

In re Application of :
Feinstein et al. : DECISION ON PETITION
Application No. 11/426,461 :
Filed: June 26, 2006 :
Atty Docket No. 528.202 :

This is a decision on the RENEWED PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b) filed March 4, 2011.

The petition is **GRANTED**.

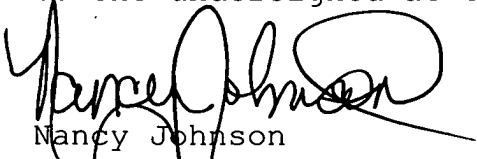
The above-identified application became abandoned effective February 24, 2008 for failure to reply in a timely manner to the final Office action mailed November 23, 2007. By decision mailed June 23, 2010, the initial petition under 37 CFR 1.137(b) was dismissed for failure to submit the required reply. By decision mailed January 4, 2011, the initial renewed petition filed November 15, 2010 was dismissed without consideration on the merits. The form PTO/SB/64 used by petitioner was not acceptable as it was modified without the text identifying the form as an Office form being removed.

On instant renewed petition, petitioner submitted the petition in proper form. Accordingly, the petition is now considered on the merits. The petition includes the required reply in the form of a continuation application, the petition fee and a statement of unintentional delay. Petitioner seeks revival solely for continuity purposes. All requirements have been met.

The above-identified application is being revived solely for purposes of continuity. As continuity has been established by this decision reviving the application, the application is again abandoned in favor of the continuation application (No.

12/058,996), filed March 31, 2008 (projected issuance March 22, 2011).

Telephone inquiries related to this decision should be directed to the undersigned at 571-272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS TX 75265

MAILED

OCT 21 2010

OFFICE OF PETITIONS

In re Application of
Gregory R. Conti et al.
Application No. 11/426,598
Filed: June 27, 2006
Attorney Docket No: T1-39617

ON PETITION

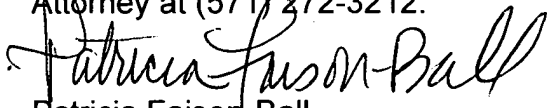
This is a decision on the petition filed September 22, 2010 under 37 CFR 1.137(b),¹ to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed June 23, 2009. A shortened statutory period of three months was set for replying to the non-Final Office Action. No response having been timely filed, this application became abandoned September 24, 2009. Accordingly, a Notice of Abandonment was mailed February 4, 2010.

This matter is being referred to Technology Center 2189 for appropriate action on the amendment filed September 22, 2010.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.


Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c)).



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HANLEY, FLIGHT & ZIMMERMAN, LLC
150 S. WACKER DRIVE
SUITE 2100
CHICAGO, IL 60606

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FEB 23 2012

OFFICE OF PETITIONS

In re Application of
Jerry Zhao, et al.
Application No. 11/426,727
Filed: June 27, 2006
Attorney Docket No.: 20002/23511

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed January 31, 2012, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for a failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 29, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) under 37 CFR 1.114 and fee of \$930; (2) the petition fee of \$1,860; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 2628 for further processing in the normal course of business of the RCE in accordance with 37 CFR 1.114.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Wu et al. : DECISION
Application No. 11/426,836 : ON APPLICATION FOR
Filed: June 27, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 13578US02 :
Title: SYSTEM AND METHOD OF :
PERFORMING DIGITAL MULTI- :
CHANNEL AUDIO SIGNAL DECODING :

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 U.S.C. § 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 C.F.R. § 1.705)," filed January 10, 2011. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand, three hundred and thirty-one (1331) days, not nine hundred and forty-two (942) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under

§ 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, Applicant must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

¹ For example, if Applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then Applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.

/Paul Shanowski/
Paul Shanowski
Senior Attorney
Office of Petitions



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390 NORTH ORANGE AVENUE
SUITE 2500
ORLANDO, FL 32801

MAILED

FEB 09 2012

OFFICE OF PETITIONS

In re Application of Peter J. Mcalindon	:	
Application No. 11/426,856	:	Decision on Petition
Filing Date: June 27, 2006	:	
Attorney Docket No. 065250-018	:	

This is a decision on the petition under 37 CFR 1.137(b) filed January 5, 2012, which requests revival of the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action including a requirement for restriction/election mailed June 24, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on July 25, 2009. A Notice of Abandonment was mailed January 5, 2010.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee, and
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional.¹

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied (1) a reply in to the June 24, 2009 Office action, (2) the required petition fee of \$930, and (3) the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

¹ A terminal disclaimer is also necessary if the application is a design application or if the application was filed on or before June 8, 1995.

Technology Center Art Unit 2629 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'Charles Brantley', with a stylized flourish at the end.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions



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**KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO, CA 94111-3834**

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MAY 23 2011

OFFICE OF PETITIONS

In re Application of

HUYNH, Timothy C. et al.

Application No. 11/426,866

Filed: June 27, 2006

Attorney Docket No. **022176-002810US**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD


This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 29, 2011.

The request is **NOT APPROVED** as moot.

A review of the file record indicates that the power of attorney to Kilpatrick Townsend & Stockton LLP has been revoked by the assignee of the patent application on May 10, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the new address of record until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at 571-272-4231.


Michelle R. Eason
Paralegal Specialist
Office of Petitions



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**LEWIS AND ROCA LLP
1663 HW 395, SUITE 201
MINDEN NV 89423**

**MAILED
MAY 27 2011
OFFICE OF PETITIONS**

In re Application of
WRIGHT
Application No. 11/426,920
Filed: June 27, 2006
Attorney Docket No. LIVE-001

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed April 21, 2011.

The request is **NOT APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

Accordingly, the request cannot be approved because there is no clear indication that the acts noted above at items (1) - (3) have been performed.

Further, the Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

In this regard, the request to withdraw from record cannot be approved because the address change is not to that of the first named inventor or a properly intervening assignee.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions

cc: BRAD JOYCE
LIVELOOP
125 WEST TRAMONT AVE., #1034
CHARLOTTE, NC 28203



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KOESTNER BERTANI LLP
2192 Martin St.
Suite 150
Irvine CA 92612

MAILED
AUG 31 2010
OFFICE OF PETITIONS

In re Application of :
Jeffrey C. HEROLD :
Application No. 11/427,047 : DECISION DISMISSING PETITION
Filed: June 28, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1072.P001 USC2 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed May 19, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/678,992, filed October 02, 2003.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The amendment as drafted is unacceptable and, therefore, is not considered a proper reference under 37 CFR 1.78(a)(2)(i). In this regard, the amendment is physically part of the petition and, as such, does not comply with 37 CFR 1.121, 1.52, or 1.4(c). Note that 37 CFR 1.121 states that amendments are made by filing a paper, in compliance with § 1.52, directing that specified amendments be made. The pertinent section of 37 CFR 1.52 states that the claim (in this case, the claim for priority), must commence on a

separate physical sheet. 37 CFR 1.4(c) states that each distinct subject must be contained in a separate paper since different matters may be considered by different branches of the United States Patent and Trademark Office.

Before the petition can be granted, petitioner must submit a substitute amendment in compliance with the aforementioned rules, along with a renewed petition under 37 CFR 1.78(a)(3).¹


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Any questions concerning this matter may be directed to Michelle R. Eason at (571) 272-4231.



Thurman K. Page
Petitions Examiner
Office of Petitions

¹ The claim for priority may also be made in an Application Data Sheet in compliance with 37 CFR 1.121 and 37 CFR 1.76(b)(5).



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KOESTNER BERTANI LLP
2192 MARTIN ST.
SUITE 150
IRVINE CA 92612

MAILED
SEP 28 2010
OFFICE OF PETITIONS

In re Application of	:	
Jeffrey C. HEROLD	:	
Application No. 11/427,047	:	DECISION DISMISSING PETITION
Filed: June 28, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1072.P001 USC2	:	

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed September 08, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §120 for the benefit of priority to prior-filed nonprovisional Application No. 10/678,992, filed October 02, 2003.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

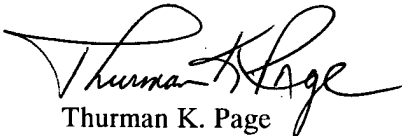
All of the above requirements having been satisfied, the late claim for priority under 35 U.S.C. § 120 is accepted as being unintentionally delayed.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Michelle R. Eason at (571) 272-4231. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being forwarded to Technology Center Art Unit 3781 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed applications.



Thurman K. Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/427,047	06/28/2006	3781	725	1072.P001 USC2	32	3

CONFIRMATION NO. 1879

CORRECTED FILING RECEIPT



OC000000043665151

32794
KOESTNER BERTANI LLP
2192 Martin St.
Suite 150
Irvine, CA 92612

Date Mailed: 09/24/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jeffrey C. Herold, Huntington Beach, CA;

Assignment For Published Patent Application

West Coast Trends, Inc., Huntington Beach, CA

Power of Attorney: The patent practitioners associated with Customer Number 32794

Domestic Priority data as claimed by applicant

This application is a CIP of 10/678,992 10/02/2003 PAT 7,188,714
which is a CON of 08/847,554 04/24/1997 ABN

Foreign Applications

If Required, Foreign Filing License Granted: 07/20/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/427,047**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

BASE SUPPORT MEMBER FOR TRAVEL BAG

Preliminary Class

190

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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Edward J. Marshall, Attorney at Law
8705 Shoal Creek Blvd.
Suite 202
Austin TX 78757

MAILED

NOV 07 2011

OFFICE OF PETITIONS

In re Application of
Richard Alexander Olson et al.
Application No. 11/427,047
Filed: June 28, 2006
Attorney Docket No. 4971.92256

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**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 19, 2011.

The request is **moot because a revocation of power of attorney has been filed.**

A review of the file record indicates that the power of attorney to Edward J. Marshall, has been revoked by the inventor of the patent application on October 24, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at 571-272-4618.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Donn K. Harms
Patent & Trademark Law Center
Suite 100
12702 Via Cortina
Del Mar, CA 92014

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11427226	
Filing Date	28-Jun-2006	
First Named Inventor	Dominic Bennett	
Art Unit	3688	
Examiner Name	KRISHAN MITTAL	
Attorney Docket Number	4001-0010	
Title	METHOD AND SYSTEM FOR PREDICTING CONSUMER BEHAVIOR	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		91944 _____
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to: The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number:		
		86636 _____
I am authorized to sign on behalf of myself and all withdrawing practitioners.		
Signature	/Brian Siritzky/	
Name	Brian Siritzky	
Registration Number	37497	



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : December 1, 2011

In re Application of :

Dominic Bennett

Application No : 11427226

Filed : 28-Jun-2006

Attorney Docket No : 4001-0010

DECISION ON REQUEST TO WITHDRAW AS
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed December 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 86636 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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Decision Date : December 1, 2011

In re Application of :

DECISION ON REQUEST TO WITHDRAW AS

David Goulden

ATTORNEY/AGENT OF RECORD

Application No : 11427243

Filed : 28-Jun-2006

Attorney Docket No : 4001-0009

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed December 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 86636 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11427243	
Filing Date	28-Jun-2006	
First Named Inventor	David Goulden	
Art Unit	2174	
Examiner Name	GRANT JOHNSON	
Attorney Docket Number	4001-0009	
Title	METHOD AND SYSTEM FOR CONTROLLING AND ADAPTING MEDIA STREAM	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		91944 _____
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to: The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number:		
		86636 _____
I am authorized to sign on behalf of myself and all withdrawing practitioners.		
Signature	/Brian Siritzky/	
Name	Brian Siritzky	
Registration Number	37497	



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Foley & Lardner LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application of	:	
Reed et al.	:	ON APPLICATION FOR
Application No. 11/427,265	:	PATENT TERM ADJUSTMENT
Filed: June 28, 2006	:	
Attorney Dkt. No. 098888-1929	:	
For: DIGITAL WATERMARK	:	
DETECTION USING PREDETERMINED	:	
COLOR PROJECTIONS	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed June 20, 2011. Applicants request that the determination of patent term adjustment be corrected from eight hundred fifty-six (856) days to one thousand one hundred forty-seven (1,147) days. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under §

1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

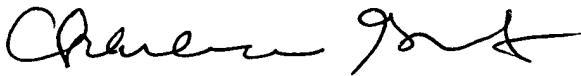
Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in black ink, appearing to read "Charlema Grant", with a stylized flourish at the end.

Charlema Grant
Attorney
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11427282	
Filing Date	28-Jun-2006	
First Named Inventor	Roger Petersen	
Art Unit	3688	
Examiner Name	KRISHAN MITTAL	
Attorney Docket Number	4001-0008	
Title	METHOD FOR PROVIDING ADVERTISING CONTENT TO AN INTERNET USER BASED ON THE USER'S DEMONSTRATED CONTENT PREFERENCES	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number:		91944 _____
The reason(s) for this request are those described in 37 CFR: 10.40(b)(4)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to: The address of the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, associated with Customer Number:		
86636 _____		
I am authorized to sign on behalf of myself and all withdrawing practitioners.		
Signature	/Brian Siritzky/	
Name	Brian Siritzky	
Registration Number	37497	



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Decision Date : December 1, 2011

In re Application of :

DECISION ON REQUEST TO WITHDRAW AS

Roger Petersen

ATTORNEY/AGENT OF RECORD

Application No : 11427282

Filed : 28-Jun-2006

Attorney Docket No : 4001-0008

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR§ 1.36(b), filed December 1, 2011

The request is **APPROVED**

The request was signed by Brian Siritzky (registration no. 37497) on behalf of all attorneys/agents associated with Customer Number 91944 . All attorneys/agents associated with Customer Number 91944 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with Customer number 86636 .

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



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GLENN PATENT GROUP
3475 EDISON WAY, SUITE L
MENLO PARK, CA 94025

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of
Sean Barger et al
Application No. 11/427,323
Filed: June 28, 2006
Attorney Docket No. EQUI0003

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:

ON PETITION


This is a decision on the petition under 37 CFR 1.137(b), filed January 12, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the non-final Office action mailed June 19, 2009, which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on September 20, 2009.

Telephone inquiries concerning this decision should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2178 for further processing.


Irvin Dingle
Petitions Examiner
Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11427477	
Filing Date	29-Jun-2006	
First Named Inventor	Stephanie Kladakis	
Art Unit	1647	
Examiner Name	CHERIE WOODWARD	
Attorney Docket Number	022956-0407	
Title	NONWOVEN TISSUE SCAFFOLD	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

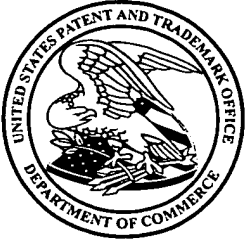
- I certify, in accordance with 37 CFR 1.4(d)(4) that :
- ☐ The RCE request ,submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Christopher J. Stow/
Name	Christopher J. Stow
Registration Number	67003



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : January 27, 2012

In re Application of :

Stephanie Kladakis

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11427477

Filed : 29-Jun-2006

Attorney Docket No : 022956-0407

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed January 27, 2012 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 1647 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: **Bi 57-36-4 (Q)-US-NP**

Patent Number: **7,660,606**

Filing Date
(or 371(b) or (f) Date): **June 29, 2006**

Issue Date: **February 9, 2010**

First Named
Inventor: **Qi Bi**

Title: **Method of controlling mobile unit response messages on an access channel**

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature **/Gregory J. Murgia/**

Date **August 9, 2010**

Name
(Print/Typed) **Gregory J. Murgia**

Registration Number **41,209**

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

WILLIAMS, MORGAN & AMERSON
10333 RICHMOND, SUITE 1100
HOUSTON, TX 77042

Mail Date: 08/13/2010

Applicant	: QI BI	: DECISION ON REQUEST FOR
Patent Number	: 7660606	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/427,639	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **460** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 07/31/2010. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: 45658-00018

Application
Number: 11/427,728

Filing Date
(or 371(b) or (f) Date): June 29, 2006

Patent Number: 7,664,596

Issue Date: February 16, 2010

First Named
Inventor: WISE, Gerald Bowden

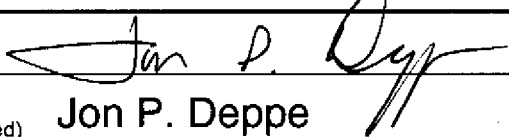
Title: "AIR TRAFFIC DEMAND PREDICTION"

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature 	Date August 16, 2010
Name (Print/Typed) Jon P. Deppe	Registration Number 65,196
Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 1.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.	
<input type="checkbox"/> *Total of _____ forms are submitted.	

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF WYETH*
(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

Patentees who received a decision from the USPTO under the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of Wyeth (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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MARSH, FISCHMANN & BREYFOGLE LLP
8055 East Tufts Avenue
Suite 450
Denver, CO 80237

Mail Date: 08/20/2010

Applicant	: Gerald Bowden Wise	: DECISION ON REQUEST FOR
Patent Number	: 7664596	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/427,728	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 06/29/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **849** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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KONRAD RAYNES & VICTOR, LLP
ATTN: IBM37
315 SOUTH BEVERLY DRIVE, SUITE 210
BEVERLY HILLS, CA 90212

MAILED

NOV 19 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of
Robert Akira Kubo et al
Application No. 11/427,732
Filed: June 29, 2006
Attorney Docket No. TUC920060027US1

This is a decision on the petition, filed November 18, 2010 under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 15, 2010 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 2187 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : July 19, 2011

TO SPE OF : ART UNIT 3775

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/427738 Patent No.: 7935134

CofC mailroom date: 6/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: Should the changes be
made?

RoChaun Hardwick
Certificates of Correction Branch
571 272-0470

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____


SPE

3775
Art Unit



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Alexandria, VA 22313-1450
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HOPE BALDAUFF HARTMAN, LLC
Michael J. Baldauff, Jr.
1720 PEACHTREE STREET, N.W
SUITE 1010
ATLANTA GA 30309

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of :
Mitch Morgan et al. :
Application No. 11/427,949 : **ON PETITION**
Filed: June 30, 2006 :
Attorney Docket No. 60101.0001USU1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 15, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, May 21, 2008, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 22, 2008.

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a continuing application under 37 CFR 1.53(b); (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the

entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

This application is being revived solely for purposes of continuity. As continuity has been established by this decision, the application is again abandoned in favor of continuing Application No. 13/048,323.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

A handwritten signature in black ink, appearing to read 'JoAnne Burke', with a large loop at the end.

JoAnne Burke
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTIONDATE : 10/12/11TO SPE OF : ART UNIT 2618SUBJECT : Request for Certificate of Correction for Appl. No.: 11428039 Patent No.: 7711383CofC mailroom date: 10/05/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

**Yours truly,
The Director/SPE**

Note: Should the changes in the claims be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____


EDWARD F. URBAN
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600

2618

SPE

Art Unit



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Thomas & Karceski, P.C.
536 GRANITE AVENUE
RICHMOND VA 23226

MAILED
OCT 12 2011
OFFICE OF PETITIONS

In re Application of :
Tyler R. Ortego et al. :
Application No. 11/428,060 : **DECISION ON PETITION**
Filed: June 30, 2006 :
Attorney Docket No. ORA 1 :

This is a decision on the petition under 37 CFR 1.59(b), filed August 24, 2011, to expunge information from the above identified application.

The petition is **granted**.

Petitioner requests that an amendment (EFS ID 10790613) filed August 23, 2011, be expunged from the record. Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public.

Petitioner notes that a subsequent amendment was filed August 23, 2011.

Applicant is required to retain the expunged material(s) for the life of any patent which issues on the above-identified application.

The expunged material has been removed from the official file.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.

Carl Friedman
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Zagorin O'Brien Graham LLP
7600B North Capital Of Texas Highway
Suite 350
Austin, TX 78731

Appl No.: 11/428,082 (now USP 7,397,234 B2)

Donald E. Alfano et al.

Filed: June 30, 2006

For: Circuit Sensor With Reset Circuit

:

**DECISION ON
PETITION
UNDER 37 CFR 1.324**

This is a decision on the applicant's "Request to Correct Inventorship in a Patent" under 37 CFR 1.324 on November 12, 2008. The applicant requests that the name of John B. Pavelka to be added to the list of inventors as originally filed, namely, Donald E. Alfano and Timothy J. Dupuis.

After a careful review of the file and applicant having supplied all of the information and requirements of 37 CFR 1.324, the petition is hereby **granted**.

The patented file is being forwarded to Certificate of Correction Branch for issuance of a certificate naming only the actual inventor or inventors.

/Ha Nguyen/

Supervisory Primary Examiner

AU 2829

Technology Center 2800



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
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ALEXANDRIA, VA 22313-1450
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SEP 21 2010

OFFICE OF PETITIONS

MDIP LLC
POST OFFICE BOX 2630
MONTGOMERY VILLAGE MD 20886-2630

In re Patent No. 7,700,342	:	DECISION ON APPLICATION FOR
Issued: April 20, 2010	:	PATENT TERM ADJUSTMENT
Application No. 11/428,092	:	
Filing or 371(c) Date: June 30, 2006	:	
Dkt. No.: AH-UTSC: 010804-22460109	:	

This is a decision on the application for patent term adjustment under 37 CFR 1.705(d) filed on June 21, 2010 requesting an increase in patent term adjustment from 651 days to 721 days.

The petition for reconsideration of the patent term adjustment of 721 days is **DISMISSED**.

The above-identified application matured into U.S. Patent No. 7,700,342 on April 20, 2010. The patent issued with a patent term adjustment of 721 days. The instant application for patent term adjustment was timely filed June 21, 2010. Patentees contest the adjustment under 37 CFR 1.703(b), or, the three year delay," of 224 days. Patentees assert that the adjustment for three year delay should be increased an additional 70 days because the provisions of 37 CFR 1.702(b)(4) and 1.703(b)(4) should not have been applied to this application, for the reasons set forth in the application for patent term adjustment.

Patentees' arguments have been carefully reviewed, but are not persuasive.

35 USC 154(b)(1)(B)(ii) states:

"[I]f the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court[.]"

37 CFR 1.702(b)(4) states:

"Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or

(f) in an international application, but not including: (4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court[.]”

37 CFR 1.703(b)(4) states:

“The period of adjustment under § 1.702(b) is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the sum of the following periods: (4) The number of days, if any, in the period beginning on the date on which a notice of appeal to the Board of Patent Appeals and Interferences was filed under 35 U.S.C. 134 and § 41.31 of this title and ending on the date of the last decision by the Board of Patent Appeals and Interferences or by a Federal court in an appeal under 35 U.S.C. 141 or a civil action under 35 U.S.C. 145, or on the date of mailing of either an action under 35 U.S.C. 132, or a notice of allowance under 35 U.S.C. 151, whichever occurs first, if the appeal did not result in a decision by the Board of Patent Appeals and Interferences.”

Herein, a Notice of Appeal was filed September 14, 2009. A pre-brief conference request was also filed September 14, 2009.

As a result of the filing of the Notice of Appeal on September 14, 2009, the three year delay period does not include the appeal period as prescribed by 37 CFR 1.703(b)(4). Submission of a pre-brief conference request does not exempt the three year period from the provisions of 37 CFR 1.704(b)(4). As the appeal did not result in a decision by the Board, but in the mailing of a Notice of Allowance, the three year period does not include the period of time from the Notice of Appeal to the mailing of the Notice of Allowance. In view thereof, no adjustment to the patent term will be made.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 5, 2011

In re Application of :

Galen Hunt

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11428096

Filed : 30-Jun-2006

Attorney Docket No : MS1-2878US

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed October 5, 2011 , to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 2194 for processing of the request for continuing examination under 37 CFR 1.114 .

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11428096	
Filing Date	30-Jun-2006	
First Named Inventor	Galen Hunt	
Art Unit	2194	
Examiner Name	TIMOTHY MUDRICK	
Attorney Docket Number	MS1-2878US	
Title	CONFIGURATION OF ISOLATED EXTENSIONS AND DEVICE DRIVERS	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

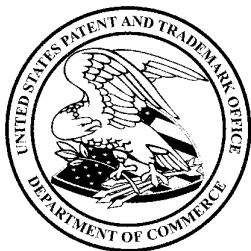
- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Elliott Y. Chen/
Name	Elliott Y. Chen
Registration Number	58293

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11428157	
Filing Date	30-Jun-2006	
First Named Inventor	Ryan Gregerson	
Art Unit	3622	
Examiner Name	JOHN VAN BRAMER	
Attorney Docket Number	36159/3.2	
Title	METHODS FOR REAL ESTATE INVESTMENT, DEVELOPMENT, AND SALES	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 32642		
The reason(s) for this request are those described in 37 CFR: 10.40(c)(1)(vi)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	Ryan Gregerson c/o Christopher J. Marchant	
Address	Hofeling Wayment Marchant, LLP 51 East 400 North, Building No. 1	
City	Cedar City	
State	UT	
Postal Code	84721	
Country	US	

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Kory D. Christensen/
Name	Kory D. Christensen
Registration Number	43548



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 2, 2011

In re Application of :

Ryan Gregerson

Application No : 11428157

Filed : 30-Jun-2006

Attorney Docket No : 36159/3.2

DECISION ON REQUEST TO WITHDRAW AS
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed December 2, 2011

The request is **APPROVED**.

The request was signed by Kory D. Christensen (registration no. 43548) on behalf of all attorneys/agents associated with Customer Number 32642 . All attorneys/agents associated with Customer Number 32642 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name Ryan Gregerson
Name2 c/o Christopher J. Marchant
Address 1 Hofeling Wayment Marchant, LLP
Address 2 51 East 400 North, Building No. 1
City Cedar City
State UT
Postal Code 84721
Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



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LEE & HAYES, PLLC
601 W. RIVERSIDE AVENUE
SUITE 1400
SPOKANE, WA 99201

MAILED

MAR 01 2011

In re Application of
RAMARATHNAM VENKATESAN ET AL
Application No. 11/428,190
Filed: June 30, 2006
Attorney Docket No. MS1-2811US

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.59(b), filed November 19, 2010, to expunge information from the above identified application.

The petition is **DISMISSED**.

Petitioner requests that a document comprising to an employment agreement, filed June 24, 2010, be expunged from the record. Petitioner states that either (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid.

Any reply must be submitted within TWO MONTHS from the mail date of this decision. Extensions of time under 37 CFR § 1.136(a) are permitted. This is not a final agency action within the meaning of 5 U.S.C. § 704.

Petitioner has requested that the assignment record be amended to delete an employment agreement. Petitioner submits that the assignment submitted on June 24, 2010 was submitted with an improper document attached and therefore request expungement of the said agreement.

As discussed in section 323.01(d) of the Manual of Patent Examining Procedure (MPEP), petitions to correct, modify or "expunge" assignment records are granted only if the petitioner can prove that:

- (A) the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief; and
- (B) the integrity of the assignment records will not be affected by granting the petition.

Petitioner has not proven either item A or B.

In regard to item A, there is no evidence of record that petitioner has attempted or considered any of the corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c). Also, there is no explanation of record as to why none of these procedures would not provide adequate relief.

Petitioner seeks an extraordinary remedy, properly addressed under 37 CFR § 1.182. The USPTO will not normally resort to an extraordinary remedy under 37 CFR § 1.182 if the rules of practice and the procedures before the USPTO already provide an avenue for the requested relief. See Cantello v. Rasmussen, 220 USPQ 664, (Comm'r Pats. 1982).

As background, the USPTO simply acts in a ministerial capacity in recording documents that have been submitted for recordation. See 35 USC 261 and 37 CFR § 3.11. However, the recording of a document pursuant to 37 CFR § 3.11 is **not** a determination by the USPTO of the validity of the document *per se* or the effect that document has on the title to a patent or application. See 37 CFR § 3.54. Moreover, it is USPTO policy to maintain a complete history of claimed interests in a given property, and, as such, a recorded assignment document will be retained, even if it is subsequently found to be invalid. In re Raney, 24 USPQ2d 1713 (Comm'r Pat. 1992).

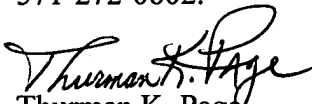
As set forth in MPEP 323, an error in a recorded assignment is not corrected by invalidating the previous document, but by simply submitting a "corrective document". The "corrective document" must include 1) a copy of the original assignment document with the corrections made therein. The corrections must be initialed and dated by the party conveying the interest; and 2) a new Recordation Form Cover Sheet (form PTO-1595). The new recordation form cover sheet must identify the submission as a "corrective document" submission and indicate the reel and frame number where the incorrectly recorded assignment document appears. The person signing the new recordation form cover sheet must state that the information provided on the new cover sheet is true and correct and that any copy submitted is a true copy of the original document. The original cover sheet should be submitted with the corrective document. The corrective document will be recorded and given a new reel and frame number and recording date. The recording fee set forth in 37 CFR 1.21(h) is required for each patent application and patent against which the corrective document is being recorded. See MPEP § 302.06. Corrections may be made on the original assignment document, for example, by lining out an incorrect patent or application number in a merger or change of name (see MPEP § 314).

Therefore, the rules of practice and the procedures before the USPTO provide an avenue for the requested relief without relying upon extraordinary measures. As a request for the Office to

invalidate an assignment is both extraordinary and contrary to USPTO policy, this petition must be dismissed.

In regard to item B, the statements submitted in support of the petition to expunge fails to establish that expungement will not affect the assignment records in this instance. The statements by petitioner suggest that the recordation may have been proper. Petitioner should note that recordation is available for numerous documents related to a patent, not just the assignment of the entire right, title and interest in the patent. See at least MPEP § 313. Moreover, the USPTO does not determine the extent of rights transferred by the assignment papers or any recorded document. Such a determination is made by a court of relevant jurisdiction. No evidence is of record establishing that the assignment was recorded improperly. Absent sufficient evidence to support the requested expungement, the integrity of the assignment records will not be disturbed by the USPTO.

Telephone inquiries concerning this communication should be directed to the undersigned at 571-272-0602.


Thurman K. Page
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,252	06/30/2006	Robert P. Morris	I402/US	3737
49277	7590	08/09/2010	EXAMINER	
SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607			CHENEY, BOBAE K.	
			ART UNIT	PAPER NUMBER
			2458	

DATE MAILED: 08/09/2010

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.



UNITED STATES DEPARTMENT OF COMMERCE
U.S. Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11428252	6/30/2006	MORRIS, ROBERT P.	1402/US

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER

KIM HUYNH

ART UNIT	PAPER
2400	20100804

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 22, 2010. The Final action mailed 7/21/10 is hereby VACATED.

The petition is GRANTED.

Pursuant to applicant's request filed on Jan 13, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of six (6) months from the filing date of the suspension request. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

If the reason for initiating the suspension no longer exists, the suspension should be terminated immediately, even if the suspension period has not expired. If Applicant were to renew the requests after the 6 month period, Applicant is expected to provide a showing of what action was being taken with regard to the application (for example, providing the Docket number of the civil action).

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned at (571) 272-4147 or Beatriz Prieto whose telephone number is (571) 272-3902.

/Kim Huynh/

Kim Huynh
WQAS, Technology Center 2400
Network, Multiplexing, Cable and Security



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,252	06/30/2006	Robert P. Morris	I402/US	3737
49277	7590	02/24/2011		
SCENERA RESEARCH, LLC				
5400 Trinity Road				
Suite 303				
Raleigh, NC 27607				
EXAMINER				
CHENEY, BOBAE K.				
ART UNIT		PAPER NUMBER		
2469				
MAIL DATE		DELIVERY MODE		
02/24/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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FEB 24 2011

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2400**

SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of: MORRIS, ROBERT P.
Application No. 11428252
Filed: June 30, 2006
For: METHOD AND SYSTEM FOR EXCHANGING
MESSAGES USING A PRESENCE SERVICE

**DECISION ON PETITION UNDER
37 C.F.R. § 1.103(a)**

This is a decision on the petition filed November 2, 2010, for suspension of prosecution under 37 CFR § 1.103(a).

The petition is GRANTED.

Pursuant to applicant's request filed on November 2, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a deduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned at (571) 272-3088 or Beatriz Prieto whose telephone number is (571) 272-3902.

/Hassan Kizou/
Hassan Kizou
WQAS, Technology Center 2400



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P.O. Box 1450
Alexandria, VA 22313-1450
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John A. Demos
111 Corning Road
Ste 220
Cary, North Carolina 27518

MAILED

SEP 30 2010

TECHNOLOGY CENTER 2100

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428273
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR PROVIDING A PROGRAM
EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,273	06/30/2006	Robert P. Morris	I370/US	3772
49277 7590 09/30/2010 SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER VU, TUAN A	
			ART UNIT 2193	PAPER NUMBER
			MAIL DATE 09/30/2010	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,273	06/30/2006	Robert P. Morris	I370/US	3772
49277 7590 01/06/2011 SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607				
			EXAMINER VU, TUAN A	
			ART UNIT 2193	PAPER NUMBER
			MAIL DATE 01/06/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Commissioner for Patents
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John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

January 5, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428273
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR PROVIDING A PROGRAM
EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software



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John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

January 7, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428273
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR PROVIDING A PROGRAM
EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 11, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 11, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of *three (3) months from the mailing date of this letter*. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,273	06/30/2006	Robert P. Morris	1370/US	3772
49277	7590	12/14/2011	EXAMINER	
SCENERA RESEARCH, LLC			VU, TUAN A	
5400 Trinity Road			ART UNIT	
Suite 303			PAPER NUMBER	
Raleigh, NC 27607			2193	

DATE MAILED: 12/14/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.



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John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

December 12, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428273
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR PROVIDING A PROGRAM
EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 11, 2011.

The petition is **GRANTED and the application identified above is suspended for three (3) months from the mailing date of this letter.**

Pursuant to applicant's request filed on April 11, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of ***three (3) months from the mailing date of this letter.*** At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,273	06/30/2006	Robert P. Morris	1370/US	3772
49277 7590 03/22/2012 SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER VU, TUAN A	
			ART UNIT	PAPER NUMBER
			2193	
			MAIL DATE	DELIVERY MODE
			03/22/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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John Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428,273
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR PROVIDING A PROGRAM
EXECUTION ENVIRONMENT

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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John A. Demos
111 Corning Road
Ste 220
Cary, North Carolina 27518

MAILED

SEP 30 2010

TECHNOLOGY CENTER 2100

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428280

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR GENERATING AND USING OBJECT
MODULES

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,280	06/30/2006	Robert P. Morris	I411/US	3782
49277 7590 09/30/2010 SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER VU, TUAN A	
			ART UNIT 2193	PAPER NUMBER
			MAIL DATE 09/30/2010	DELIVERY MODE PAPER

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,280	06/30/2006	Robert P. Morris	I411/US	3782
49277 7590 01/12/2011 SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER VU, TUAN A	
			ART UNIT 2193	PAPER NUMBER
			MAIL DATE 01/12/2011	DELIVERY MODE PAPER

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John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

January 11, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428280

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR GENERATING AND USING OBJECT
MODULES

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on July 16, 2010.

The petition is **GRANTED**.

Pursuant to applicant's request filed on July 16, 2010, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software



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John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

July 7, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428280

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR GENERATING AND USING OBJECT
MODULES

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DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on April 15, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 15, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,280	06/30/2006	Robert P. Morris	1411/US	3782
49277	7590	12/14/2011	EXAMINER	
SCENERA RESEARCH, LLC			VU, TUAN A	
5400 Trinity Road			ART UNIT	
Suite 303			PAPER NUMBER	
Raleigh, NC 27607			2193	

DATE MAILED: 12/14/2011

Please find below and/or attached an Office communication concerning this application or proceeding.

The request for deferral/suspension of action under 37 CFR 1.103 has been approved.



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John A. Demos
SCENERA RESEARCH, LLC
5400 TRINITY ROAD
SUITE 303
RALEIGH, NC 27607

December 12, 2011

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428280

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR GENERATING AND USING OBJECT
MODULES

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on October 11, 2011.

The petition is **GRANTED**.

Pursuant to applicant's request filed on April 15, 2011, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned (or name of the TQAS) whose telephone number is (571) 272-3591.

/Gail Hayes/
Gail Hayes, SPRE/QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,280	06/30/2006	Robert P. Morris	1411/US	3782
49277 7590 03/22/2012 SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607			EXAMINER VU, TUAN A	
			ART UNIT 2193	PAPER NUMBER
			MAIL DATE 03/22/2012	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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John Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428,280
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR GENERATING AND USING OBJECT
MODULES

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecution under 37 CFR § 1.103(a) filed on 21 March 2012.

The petition is **GRANTED**.

Pursuant to applicant's request filed on 21 March 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,324	06/30/2006	Robert P. Morris	1427/US	3837

49277 7590 03/28/2011
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER

BIRKHIMER, CHRISTOPHER D

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
03/28/2011	PAPER

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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of: Robert P. MORRIS
Application No. 11/428,324
Attorney Docket No. I427/US
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND
COMPUTER PROGRAM PRODUCTS FOR
USING A STRUCTURED DATA
STORAGE SYSTEM TO PROVIDE
ACCESS TO ADDRESSABLE ENTITIES
IN VIRTUAL ADDRESS SPACE

DECISION ON PETITION
UNDER 37 C.F.R. 1.103(a) FOR
SUSPENSION OF EXAMINATION

This paper provides the decision on the petition filed on February 23, 2011, under 37 C.F.R. § 1.103(a) for suspension of examination.

The Petition is **GRANTED**.

RULES AND PROCEDURES

37 CFR 1.103 States as follows:

37 CFR 1.103. Suspension of action by the Office.

(a) Suspension for cause . On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

- (1) A showing of good and sufficient cause for suspension of action; and
- (2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

A review of the prosecution history reveals that no office action is outstanding. Therefore, the petition satisfies the requirement of 37 CFR 1.103(a) as outlined above.

Accordingly, the petition is **GRANTED**.

Action by the office is suspended in this application under 37 CFR § 1.103(a) for a period of 3 months from the date of mailing of this decision. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709. If the reason for initiating the suspension no longer exists, the suspension should be terminated immediately, even if the suspension period has not expired.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist,
Technology Center 2100, Work Group 2180



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,324	06/30/2006	Robert P. Morris	1427/US	3837

49277 7590 02/23/2012
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, NC 27607

EXAMINER

BIRKHIMER, CHRISTOPHER D

ART UNIT	PAPER NUMBER
2186	

MAIL DATE	DELIVERY MODE
02/23/2012	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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John A. Demos
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428,324
Filed: June 30, 2006
For: METHODS, SYSTEMS AND COMPUTER PROGRAM
PRODUCTS FOR USING A STRUCTURED DATA
STORAGE SYSTEM TO PROVIDE ACCESS TO
ADDRESSABLE ENTITIES IN VIRTUAL ADDRESS
SPACE

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 22 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 22 February 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,338	06/30/2006	Robert P. Morris	1374/US	3864
49277	7590	03/28/2011		
SCENERA RESEARCH, LLC				
5400 Trinity Road				
Suite 303				
Raleigh, NC 27607				
EXAMINER				
BIRKHIMER, CHRISTOPHER D				
ART UNIT		PAPER NUMBER		
2186				
MAIL DATE		DELIVERY MODE		
03/28/2011		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh NC 27607

In re Application of: Robert P. MORRIS
Application No. 11/428,338
Attorney Docket No. I374/US
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND
COMPUTER PROGRAM PRODUCTS FOR
PROVIDING ACCESS TO ADDRESSABLE
ENTITIES USING A NON-SEQUENTIAL
VIRTUAL ADDRESS SPACE

DECISION ON PETITION
UNDER 37 C.F.R. 1.103(a) FOR
SUSPENSION OF EXAMINATION

This paper provides the decision on the petition filed on February 25, 2011, under 37 C.F.R. § 1.103(a) for suspension of examination.

The Petition is **GRANTED**.

RULES AND PROCEDURES

37 CFR 1.103 States as follows:

37 CFR 1.103. Suspension of action by the Office.

(a) Suspension for cause. On request of the applicant, the Office may grant a suspension of action by the Office under this paragraph for good and sufficient cause. The Office will not suspend action if a reply by applicant to an Office action is outstanding. Any petition for suspension of action under this paragraph must specify a period of suspension not exceeding six months. Any petition for suspension of action under this paragraph must also include:

- (1) A showing of good and sufficient cause for suspension of action; and
- (2) The fee set forth in § 1.17(g), unless such cause is the fault of the Office.

A review of the prosecution history reveals that no office action is outstanding. Therefore, the petition satisfies the requirement of 37 CFR 1.103(a) as outlined above.

Accordingly, the petition is **GRANTED**.

Application SN11/428,338
Decision on Petition

Action by the office is suspended in this application under 37 CFR § 1.103(a) for a period of 3 months from the date of mailing of this decision. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709. If the reason for initiating the suspension no longer exists, the suspension should be terminated immediately, even if the suspension period has not expired.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-4210.

/Mano Padmanabhan/

Mano Padmanabhan
Quality Assurance Specialist,
Technology Center 2100, Work Group 2180



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/428,338	06/30/2006	Robert P. Morris	I374/US	3864
49277 7590 02/23/2012 SCENERA RESEARCH, LLC 5400 Trinity Road Suite 303 Raleigh, NC 27607				
EXAMINER BIRKHIMER, CHRISTOPHER D				
ART UNIT		PAPER NUMBER		
2186				
MAIL DATE		DELIVERY MODE		
02/23/2012		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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Theodosios Thomas
SCENERA RESEARCH, LLC
5400 Trinity Road
Suite 303
Raleigh, North Carolina 27607

In re Application of:
Robert P. MORRIS
Appl. No.: 11/428,338
Filed: June 30, 2006
For: METHODS, SYSTEMS, AND COMPUTER PROGRAM
PRODUCTS FOR PROVIDING ACCESS TO
ADDRESSABLE ENTITIES USING A NON-SEQUENTIAL
VIRTUAL ADDRESS SPACE

DECISION ON PETITION
UNDER 37 CFR § 1.103(a)

This is a decision on the petition for suspension of prosecutions under 37 CFR § 1.103(a) filed on 22 February 2012.

The petition is **GRANTED**.

Pursuant to applicant's requests filed on 22 February 2012, action by the Office is suspended on this application under 37 CFR § 1.103(a) for a period of three (3) months from the mailing date of this letter. At the end of this period, applicant is required to notify the examiner and request continuance of prosecution or a further suspension. See MPEP § 709.

Suspension of action under 37 CFR § 1.103(a)-(d) at the applicant's request will cause a reduction in patent term adjustment accumulated (if any) under 37 CFR § 1.703. The reduction is equal to the number of days beginning on the date a request for suspension of action was filed and ending on the date of the termination of the suspension. See 37 CFR § 1.704(c)(1).

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3613.

/Vincent N. Trans/
Vincent N. Trans, QAS
Technology Center 2100
Computer Architecture and Software



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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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SHELL OIL COMPANY
P O BOX 2463
HOUSTON TX 77252-2463

MAILED

JAN 03 2012

In re Application of
Grootveld et al.
Application No 11/428,478
Filed: July 3, 2006
Attorney Docket No. TS1675 (US)

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed December 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of March 1, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). No extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is June 2, 2010. A Notice of Abandonment was mailed on September 10, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$930.00, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1860.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 1795 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Charlema Grant
Attorney Advisor
Office of Petitions



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RANKIN, HILL & CLARK LLP
38210 GLENN AVENUE
WILLOUGHBY, OH 44094-7808

MAILED

SEP 23 2010

OFFICE OF PETITIONS

In re Application of :
Tohru Ono, et al. :
Application No. 11/428,695 : **DECISION GRANTING PETITION**
Filed: July 5, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. SHG-16744 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed September 14, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 14, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3618 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/140 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION TO WITHDRAW AN APPLICATION FROM ISSUE AFTER PAYMENT OF THE ISSUE FEE UNDER 37 CFR 1.313(c)	
Application Number	11428857	
Filing Date	06-Jul-2006	
First Named Inventor	Brady Rackley III	
Art Unit	3694	
Examiner Name	MOHAMMAD SHAIKH	
Attorney Docket Number	080629	
Title	METHODS AND SYSTEMS FOR PAYMENT TRANSACTIONS IN A MOBILE ENVIRONMENT	
<p>An application may be withdrawn from issue for further action upon petition by the applicant. To request that the Office withdraw an application from issue, applicant must file a petition under this section including the fee set forth in § 1.17(h) and a showing of good and sufficient reasons why withdrawal of the application from issue is necessary.</p> <p>APPLICANT HEREBY PETITIONS TO WITHDRAW THIS APPLICATION FROM ISSUE UNDER 37 CFR 1.313(c).</p> <p>A grantable petition requires the following items:</p> <p>(1) Petition fee; and</p> <p>(2) One of the following reasons:</p> <p>(a) Unpatentability of one or more claims, which must be accompanied by an unequivocal statement that one or more claims are unpatentable, an amendment to such claim or claims, and an explanation as to how the amendment causes such claim or claims to be patentable;</p> <p>(b) Consideration of a request for continued examination in compliance with § 1.114 (for a utility or plant application only); or</p> <p>(c) Express abandonment of the application. Such express abandonment may be in favor of a continuing application, but not a CPA under 37 CFR 1.53(d).</p>		
<p>Petition Fee</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY</p>		
Reason for withdrawal from issue		

- ☐ One or more claims are unpatentable
- ☒ Consideration of a request for continued examination (RCE) (List of Required Documents and Fees)
- ☐ Applicant hereby expressly abandons the instant application (any attorney/agent signing for this reason must have power of attorney pursuant to 37 CFR 1.32(b)).

RCE request, submission, and fee.

- ☐ I certify, in accordance with 37 CFR 1.4(d)(4) that:
- ☐ The RCE request, submission, and fee have already been filed in the above-identified application on
- ☒ Are attached.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors
- ☐ A joint inventor; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71

Signature	/Nicholas A. Cole/
Name	Nicholas A. Cole
Registration Number	60957



UNITED STATES PATENT AND TRADEMARK OFFICE

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United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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Decision Date : December 1, 2011

In re Application of :

Brady Rackley III

DECISION ON PETITION

UNDER CFR 1.313(c)(2)

Application No : 11428857

Filed : 06-Jul-2006

Attorney Docket No : 080629

This is an electronic decision on the petition under 37 CFR 1.313(c)(2), filed December 1, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid in this application cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being referred to Technology Center AU 3694 for processing of the request for continuing examination under 37 CFR 1.114.

Office of Petitions



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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED
MAY 26 2011
OFFICE OF PETITIONS

In re Application of
Brady Lee Rackley III et al
Application No. 11/428,861
Filed: July 6, 2006
Attorney Docket No. 080637

DECISION ON REQUEST FOR REFUND

This is a decision on the request for refund filed May 9, 2011

The request for refund is **Granted**.

Applicant files the above request and states that "On April 14, 2011, Applicant filed a Request for Continued Examination of the above-identified application and authorized the charge of \$810.00 for the same to Applicant's Deposit Account.

On May 3, 2011, Applicant inadvertently and erroneously filed an additional Request for Continued Examination and authorized an overpayment charge of \$810.00 for Processing of the fees required, which was not required. ..."

A review of Office records show that the \$810.00 RCE fee submitted on May 3, 2011 was credited to petitioner's deposit account on May 18, 2011. The required RCE fee was previously paid on April 14, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions



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QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

JAN 19 2011

OFFICE OF PETITIONS

In re Application of
Brady Lee Rackley III, et al.
Application No. 11/428,879
Filed: July 6, 2006
Attorney Docket No. **080643**

:
:
: DECISION ON PETITION
:
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 3, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed May 11, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on August 12, 2010

The petition is hereby **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to JoAnne Burke at (571) 272-4584.

This application is being referred to Technology Center AU 3694 for appropriate action by the Examiner in the normal course of business.

JoAnne Burke
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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**VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601**

MAILED

NOV 02 2010

OFFICE OF PETITIONS

In re Application of

LIN, Alex K. C.

Application No. 11/428,889

Filed: April 06, 2006

Attorney Docket No. **26937.00119**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 12, 2010.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

Customer must submit the assignment with the last known assignee updated information as of September 04, 2007.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **PLANO MOLDONG COMPANY**
431 EAST SOUTH STREET
PLANO IL 60545



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**COLLEN IP
THE HOLYOKE MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING, NY 10562**

MAILED

JUN 01 2011

In re Application of	:	OFFICE OF PETITIONS
Elizabeth Grace Frank-Backman	:	
Application No. 11/428,951	:	DECISION ON PETITION
Filed: July 6, 2006	:	TO WITHDRAW
Attorney Docket No. F423	:	FROM RECORD
	:	

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed May 23, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Donald J. Ranft on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Elizabeth Grace Frank-Backman at the address indicated below.

There is an outstanding Office action mailed December 21, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Elizabeth Grace Frank-Backman**
Zidqiyahu 5/2
Jerusalem 93471
Israel



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/428,951	07/06/2006	Elizabeth Grace Frank-Backman	F423

34440
COLLEN IP
THE HOLYOKE MANHATTAN BUILDING
80 SOUTH HIGHLAND AVENUE
OSSINING, NY 10562

CONFIRMATION NO. 4761
POWER OF ATTORNEY NOTICE



Date Mailed: 05/26/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 05/23/2011.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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Paper No.

KATTEN MUCHIN ROSENMAN LLP
575 MADISON AVENUE
NEW YORK NY 10022-2585

MAILED

JUN 16 2011

OFFICE OF PETITIONS

In re Patent No. 7,756,076	:	
Issue Date: July 13, 2010	:	
Application No. 11/429,002	:	
Inventor: Nakano	:	DECISION ON PETITION
Filed: May 5, 2006	:	PURSUANT TO
Attorney Docket No. FUJA 22.539	:	37 C.F.R. § 1.182
Title: CELLULAR MOBILE	:	
COMMUNICATION SYSTEM HAVING	:	
ADJACENT BASE STATIONS EACH	:	
USING SAME FREQUENCY FOR	:	
COMMUNICATION BETWEEN BASE	:	
STATION AND MOBILE TERMINALS	:	

This is a decision on the petition filed on April 8, 2011, pursuant to 37 C.F.R. § 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The file record discloses that application No. 11/429,002 matured into U.S. Patent No. 7,756,076 on July 13, 2010. The electronic records further reveal that on that same date, the Patent Grant was mailed to the address of record. However, Petitioner requests a duplicate, contending that the Letters Patent has been lost.

Receipt of the petition fee is acknowledged.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent. The Publishing Division (which may be reached at 571-272-4200) will be made aware of this decision in due course.

Telephone inquiries regarding this decision should be directed to the undersigned at (571) 272-3225.¹

/Paul Shanowski/
Paul Shanowski
Senior Attorney
Office of Petitions

¹ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for Petitioner's further action(s).



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In re Patent No. 7318488 :
Issue Date: January 15, 2008 :
Application No. 11429041 :DECISION GRANTING PETITION
Filed: May 5, 2006 :UNDER 37 CFR 1.378(c)
Attorney Docket No. LDC-02-02US-D1 :

This is a decision on the electronic petition, filed February 14, 2012, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of February 14, 2012. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7318488	2008-01-15	11429041	2006-05-05	LDC-02-02US-D1

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|---------------------------------|-----|--------|
| <input type="radio"/> 3 ½ year | | (1551) |
| <input type="radio"/> 7 ½ year | | (1552) |
| <input type="radio"/> 11 ½ year | | (1553) |

Small Entity

- | | Fee | Code |
|---|-----|--------|
| <input checked="" type="radio"/> 3 ½ year | | (2551) |
| <input type="radio"/> 7 ½ year | | (2552) |
| <input type="radio"/> 11 ½ year | | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☐ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

Patent Practitioner			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the form of the signature			
Signature	/Richard A. Fagin/	Date (YYYY-MM-DD)	2012-12-14
Name	Richard A. Fagin	Registration Number	39182
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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ANDRUS, SCEALES, STARKE & SAWALL, LLP
100 EAST WISCONSIN AVENUE, SUITE 1100
MILWAUKEE, WI 53202

Mail Date: 08/05/2010

Applicant	: Mark A. Terres	: DECISION ON REQUEST FOR
Patent Number	: 7662216	: RECALCULATION of PATENT
Issue Date	: 02/16/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/429,149	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/05/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **553** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



UNITED STATES PATENT AND TRADEMARK OFFICE

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INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/04/2010

Applicant	: Makarem A. Hussein	: DECISION ON REQUEST FOR
Patent Number	: 7649239	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/429,165	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **722** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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III 18 2011
OFFICE OF PETITIONS

FINNEGAN HENDERSON FARABOW
GARRETT & DUNNER LLP
901 NEW YORK AVENUE NW
WASHINGTON DC 20001-4413

In re Patent No. 7,847,079	: DECISION ON
Rosen, et al.	: REQUEST FOR RECONSIDERATION
Application No. 11/429,374	: of PATENT TERM ADJUSTMENT
Issue Date: December 7, 2010	: and
Filed: May 8, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 06832.0062-01	: CERTIFICATE OF CORRECTION

This is a decision on the “APPLICATION FOR PATENT TERM ADJUSTMENT – POST-GRANT”, filed February 7, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected from eight hundred fifty-one (851) days to eight hundred ninety-five (895) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**.

On October 19, 2010, the instant application matured into U.S. Patent No. 7,847,079 with a patent term adjustment of 851 days. The Office determined a patent term adjustment of 851 days based upon 487 days of Office delay pursuant to 37 CFR 1.703(a)(1), 44 days of Office delay pursuant 37 CFR 1.703(a)(4), and 413 days pursuant to CFR 1.703(b), reduced by 79, 31, and 45 days of Applicant delay pursuant to 37 CFR 1.704(b), and 4 days of Applicant delay pursuant to 37 CFR 1.704(c)(8).

Patentees are correct that the Office improperly subtracted 44 days of overlap between “A” and “B” delay. The “B” delay does not include the period from February 12, 2010 (the date applicants filed a Notice of Appeal) to July 26, 2010 (the date the Office mailed a Notice of Allowance). Accordingly, the 44 days of “A” delay do not overlap with the “B” delay period.

In view thereof, the correct number of days of patent term adjustment is **eight hundred ninety-five (895)** days (531 days of "A" delay and 413 days of "B" delay, reduced by 49 days of Applicant delay).

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **eight hundred ninety-five (895) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3207.

A handwritten signature in black ink, appearing to read "Cliff Congo", is positioned above the typed name.

Cliff Congo
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,847,079 B2

DATED : December 7, 2010

INVENTOR(S) : Rosen et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 885 days.

Delete the phrase “by 851 days” and insert – by 895 days--



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BAXANO C/O SHAY LAW
2755 CAMPUS DRIVE SUITE 210
SAN MANTEO CA 94403

MAILED

FEB 25 2011

In re Application of
BLEICH, et al.
Application No. 11/429,377
Filed: May 4, 2006
Attorney Docket No. 10376-700.504

PCT LEGAL ADMINISTRATION

:
: **DECISION ON PETITIONS**
: **UNDER 37 CFR 1.78(a)(6)**
:
:

This is a decision on the "PETITION TO ACCEPT AN UNINTENTIONALLY DELAYED CLAIM FOR PRIORITY UNDER 35 U.S.C. §120 AND §119(e)" filed 12 August 2010 and amendment filed 06 January 2011. Applicant has provided payment of the petition fee.

The petition is **GRANTED**.

A petition under 37 CFR 1.78(a)(6) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after expiration of the period specified in 37 CFR 1.78(a)(5)(ii) and must be filed during the pendency of the nonprovisional application. In addition, the petition must be accompanied by:

- (1) the reference required by 35 U.S.C. § 119(e) and 37 CFR 1.78(a)(5)(i) to the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(5)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

The instant pending nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed provisional applications are submitted after expiration of the period specified in 37 CFR 1.78(a)(5)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(6).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(6) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(5)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.78 that the entire period of delay was unintentional. Accordingly, having found that the instant petition for acceptance of an unintentionally delayed claim for the benefit of priority

under 35 U.S.C. § 119(e) to the above-noted, prior-filed provisional applications satisfy the conditions of 37 CFR 1.78(a)(6), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed application under 37 CFR 1.78(a)(6) should not be construed as meaning that the instant application is entitled to the benefit of the filing date of the prior-filed application. In order for the instant application to be entitled to the benefit of the prior-filed application, all other requirements under 35 U.S.C. §119(e) and 37 CFR 1.78(a)(4) and (a)(5) must be met. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition. Any questions concerning this matter may be directed to Derek A. Putonen at (571) 272-3294. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This matter is being referred to Technology Center Art Unit 3775 for appropriate action on the amendment submitted January 06, 2011, including consideration by the examiner of the claim for benefit of the prior-filed applications.



Bryan Lin
Legal Examiner
Office of PCT Legal Administration

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 07/31/2010. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: 2269-066-03

Application
Number: 11/429392

Filing Date
(or 371(b) or (f) Date): May 4, 2006

Patent Number:
7,660,341

Issue Date:
February 9, 2010

First Named
Inventor: Benoit Durand

Title: RECEIVER DEVICE SUITED TO A TRANSMISSION SYSTEM USING A DIRECT SEQUENCE SPREAD SPECTRUM

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Kevin D. Jablonski/

Date August 4, 2010

Name
(Print/Typed) Kevin D. Jablonski

Registration Number 50401

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF *WYETH****
(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Bryan A. Santarelli
GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue NE
Bellevue, WA 98004-5973

Mail Date: 08/13/2010

Applicant	: Benoit Durand	: DECISION ON REQUEST FOR
Patent Number	: 7660341	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/429,392	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **839** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 07/31/2010. OMB 0651-0020

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REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: 2269-065-03

Application
Number: 11429452

Filing Date
(or 371(b) or (f) Date): May 4, 2006

Patent Number: 7656932

Issue Date: February 2, 2010

First Named
Inventor: Benoit Durand

Title: DIGITAL RECEIVER DEVICE

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

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**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Kevin D. Jablonski/

Date August 30, 2010

Name
(Print/Typed) Kevin D. Jablonski

Registration Number 50401

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

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Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

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2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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Bryan A. Santarelli
GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue NE
Bellevue, WA 98004-5973

Mail Date: 09/07/2010

Applicant	: Benoit Durand	: DECISION ON REQUEST FOR
Patent Number	: 7656932	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/429,452	: OF WYETH
Filed	: 05/04/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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SEP 20 2010

OFFICE OF PETITIONS

FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

In re Application of	:	
Itzhak	:	ON APPLICATION FOR
Application No. 11/429,468	:	PATENT TERM ADJUSTMENT
Filed: May 5, 2006	:	
Attorney Dkt. No. 088245-9267	:	
For: GLOBAL POSITIONING USING	:	
PLANETARY CONSTANTS	:	

This is in response to the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 CFR 1.705(b)" filed August 3, 2010. Applicants request that the determination of patent term adjustment be corrected from six hundred seventy-nine (679) days to one thousand two hundred thirty (1,230) days. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required. The fee set forth in 37 CFR 1.18(e) is required and will not be refunded.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the

actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is written over the printed name.

Anthony Knight
Director
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 27, 2011

TO SPE OF : ART UNIT 2491

SUBJECT : Request for Certificate of Correction for Appl. No.: 11429476 , Patent No.: 8079073

CofC mailroom date: 12-29-11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Magdalene Talley
Certificates of Correction Branch
571-272-0423 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Ashok Patel /
SPE

2491
Art Unit



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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 14 2011

OFFICE OF PETITIONS

In re Application of	:	
Jung et al.	:	
Application No. 11/429,643	:	DECISION ON PETITION
Filed: May 5, 2006	:	TO WITHDRAW
Attorney Docket No. QQ1-0058US	:	FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 26, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

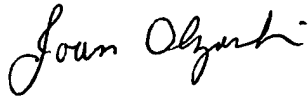
An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, a Board of Patent Appeals and Interferences Docketing Notice was mailed January 31, 2011 in the above-identified application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

A handwritten signature in black ink, appearing to read "Joan Olszewski". The signature is fluid and cursive, with a horizontal line extending from the end.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201



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DEC 20 2011
OFFICE OF PETITIONS

Goodwin Procter LLP
Patent Administrator
53 State Street
Boston MA 02109-2881

In re Patent No. 7,311,595
Issued: December 25, 2007
Application No.: 11/429,648
Filed: May 5, 2006
Attorney Docket No: **TOP-001C3**

:
:
: NOTICE
:
:

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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HARNESSE, DICKY, & PIERCE, P.L.C
7700 BONHOMME, SUITE 400
ST. LOUIS, MO 63105

MAILED

SEP 29 2011

OFFICE OF PETITIONS

In re Application of
Raju R. Viswanathan, et al.
Application No. 11/429,668
Filed: May 5, 2006
Attorney Docket No.: 5236-000686/US

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:
:
:
:

ON PETITION

This is a decision in response to the petition, filed, September 21, 2011, to revive the above-identified application under the provisions of 37 CFR 1.137(b).

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed December 20, 2010, which set a shortened statutory period for reply of three (3) months. In view of a 3-month extension of time under the provisions of 37 CFR 1.136(a), the application became abandoned on June 21, 2011. A Notice of Abandonment was mailed on July 21, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment; (2) the petition fee of \$1,620; and (3) an adequate statement of unintentional delay.

This application is being referred to Technology Center AU 3777 for appropriate action by the Examiner in the normal course of business on the reply received September 21, 2011.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (02-10)

Approved for use through 07/31/2010. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: 2269-067-03

Application
Number: 11/429674

Filing Date
(or 371(b) or (f) Date): May 4, 2006

Patent Number: 7,660,342

Issue Date: February 9, 2010

First Named
Inventor: Benoit Durand

Title: DIGITAL RECEPTION DEVICE WITH AN INPUT COMPARATOR

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Kevin D. Jablonski/

Date August 4, 2010

Name
(Print/Typed) Kevin D. Jablonski

Registration Number 50401

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 10 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF *WYETH****
(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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GRAYBEAL JACKSON HALEY LLP
Suite 350
155-108th Avenue N.E.
Bellevue, WA 98004-5973

Mail Date: 08/18/2010

Applicant	: Benoit Durand	: DECISION ON REQUEST FOR
Patent Number	: 7660342	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/429,674	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/04/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **838** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/429,703	05/08/2006	Kayla Cornale	51942-335779	4621

25764	7590	03/07/2011
FAEGRE & BENSON LLP		
PATENT DOCKETING - INTELLECTUAL PROPERTY		
2200 WELLS FARGO CENTER		
90 SOUTH SEVENTH STREET		
MINNEAPOLIS, MN-55402-3901		

EXAMINER	
EGLOFF, PETER RICHARD	

ART UNIT	PAPER NUMBER
3715	

NOTIFICATION DATE	DELIVERY MODE
03/07/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

djohnson2@faegre.com
rhale@faegre.com
PatentDocketing@Faegre.com



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PATENT DOCKETING - INTELLECTUAL PROPERTY
2200 WELLS FARGO CENTER
90 SOUTH SEVENTH STREET
MINNEAPOLIS MN 55402-3901

In re Application of:
CORNALE, KAYLA
Serial No.: 11/429,703
Filed: May 8, 2006
Docket: 51942-335779

DECISION ON PETITION

Title: METHOD FOR TEACHING WRITTEN
LANGUAGE


This is a decision on the Petition for Suspension of Action received on October 29, 2010, seeking to suspend action on the above-identified application for a period of six months. This petition is being considered pursuant to 37 CFR § 1.103.

The petition is dismissed.

On October 29, 2010, petitioner filed the current petition to suspend office action to accommodate the applicant's academic and travel schedules so that an in-person interview may be scheduled. In the petition, petitioner alleges that the applicant requests a suspension of action on the patent application for a period of six (6) months to allow the applicant to attend school and travel.

The reason for a six-month suspension of action is not convincing and could not justify a six-month delay in prosecution. The Office must balance the burden of timely examinations and needs of the public to know which claims it faces with the needs of applicants in pursuing claims which reflect the scope to which they are entitled. Applicant has failed to outline where she presently stands in her academic and travel schedules. Petitioner fails to establish why, in particular, a six-month suspension of action will advance the prosecution of this patent application. The applicant is encouraged to initiate a telephone interview in order to facilitate and advance the prosecution. Accordingly, petitioner has failed to establish good and sufficient reasons to delay the prosecution. The application remains in active status and being returned to the examiner for immediate examination of the application and issuance of an Office action in response to the applicant's amendment filed on October 5, 2010. The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3715 for preparation of an Office action. Any inquiry regarding this decision should be directed to Henry Yuen, Special Programs Examiner, at (571) 272-4856.

The petition is DISMISSED.



Donald T. Hajec, Director
Technology Center 3700



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

William Robert Myers
719 E. Medio St. #11
Long Beach CA 90802

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
William Robert MYERS : ON PETITION
Application No. 11/429,749 :
Filed: May 9, 2006 :

This is a decision on the petition under 37 CFR 1.137(b), filed May 18, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application went abandoned for failure to reply in a timely manner to the nonfinal Office action mailed February 24, 2009 and re-mailed with time restarted May 8, 2009, which had a shortened statutory period for reply of three (3) months. No reply was received, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on August 9, 2009. A Notice of Abandonment was mailed December 2, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The petition lacks item (1).

Regarding item (1), the instant petition does not include a reply in the form of a Response to the nonfinal Office action re-mailed May 8, 2009.

Petitioner may wish to consider hiring a registered patent attorney or agent to assist in the prosecution of this application. Additionally, petitioner is encouraged to contact the

Inventors Assistance Center (IAC) by telephone at 800-786-9199 or 571-272-1000, Monday through Friday from 8:30AM to 5:30PM (EST). The IAC provides patent information and services to the public and is staffed by former Supervisory Patent Examiners and experienced Primary Examiners who answer general questions concerning patent examining policy and procedure.

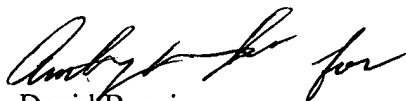
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, Virginia 22314

Telephone inquiries related to this decision may be directed to Robert DeWitty, Petitions Attorney, Office of Petitions at (571) 272-8427.

A handwritten signature in black ink, appearing to read "David Bucci for".

David Bucci
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

MAILED

AUG 25 2011

OFFICE OF PETITIONS

William Robert Myers
719 E. Medio St. #11
Long Beach CA 90802

In re Application of
William Robert MYERS
Application No. 11/429,749
Filed: May 9, 2006

:
: ON PETITION
:
:

This is in response to the renewed petition under 37 CFR 1.137(b), filed August 8, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mailing date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)". This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

The application went abandoned for failure to reply in a timely manner to the nonfinal Office action mailed February 24, 2009 and re-mailed with time restarted May 8, 2009, which had a shortened statutory period for reply of three (3) months. No reply was received, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on August 9, 2009. A Notice of Abandonment was mailed December 2, 2009.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) an appropriate reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay for filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). The petition lacks item (1).

Regarding item (1), petitioner has provided a document labeled "RESPONSE", however the response is not signed. Additionally, petitioner has stated that the '... claims will be revised ...', however revised claims should have been provided for an appropriate response.

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, Virginia 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, Virginia 22314

Telephone inquiries related to this decision may be directed to Robert DeWitty, Petitions Attorney, Office of Petitions at (571) 272-8427.


for Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

LAW OFFICES OF LARRY K. ROBERTS, INC.
2603 Main Street
9th Floor
Irvine CA 92614-6232

MAILED

OCT 26 2011

OFFICE OF PETITIONS

In re Application of :
William Robert MYERS : ON PETITION
Application No. 11/429,749 :
Filed: May 9, 2006 :

This is in response to the renewed petition under 37 CFR 1.137(b), filed October 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

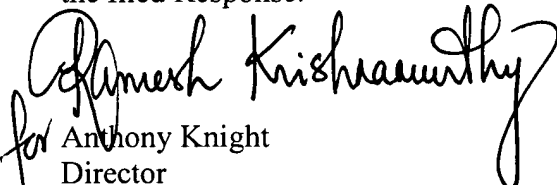
The application went abandoned for failure to reply in a timely manner to the nonfinal Office action mailed February 24, 2009 and re-mailed with time restarted May 8, 2009, which had a shortened statutory period for reply of three (3) months. No reply was received, and no extensions of time under the provisions of 37 CFR 1.136(a) were obtained. The application became abandoned on August 9, 2009. A Notice of Abandonment was mailed December 2, 2009.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of a Response to the Office action mailed February 24, 2009, (2) a petition fee of \$810, and (3) a statement of unintentional delay. The reply to the Office action is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that the delay in paying the maintenance fee under 37 CFR 1.378(c) was intentional, petitioner must notify the Office.

Telephone inquiries related to this decision may be directed to Robert DeWitty, Petitions Attorney, Office of Petitions at (571) 272-8427.

The application will be referred to Technology Center Art Unit 1791 for consideration of the filed Response.


for Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

**WELSH & KATZ, LTD.
JON P. CHRISTENSEN
22ND FLOOR
120 SOUTH RIVERSIDE PLAZA
CHICAGO IL 60606**

**MAILED
FEB 22 2011
OFFICE OF PETITIONS**


In re Patent No. 7,523,082	:	
Issue Date: April 21, 2009	:	
Application No. 11/429,774	:	ON PETITION
Filed: May 8, 2006	:	
Attorney Docket No. 0600-96957	:	

This is a decision on the petition February 17, 2010, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to Diane C. Goodwyn at (571) 272-6735. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.


Thurman K. Page
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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ALEXANDRIA, VA 22313-1450
www.uspto.gov

David M. Driscoll, Esq.
1201 Canton Avenue
Milton MA 02186

MAILED
JUL 25 2011
OFFICE OF PETITIONS

In re Patent No. 7,364,582 :
Issued: 04/29/2008 :
Application No. 11/429,796 : NOTICE
Filed: 05/08/2006 :
Attorney Docket No. CE-1001C1 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed July 6, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

EHUD MENDELSON
GAMBA GROUP LLC
11190 HERON BAY BLVD.
SUITE 916
CORAL SPRINGS, FL 33076

MAILED

JAN 30 2012

OFFICE OF PETITIONS

ON PETITION

In re Application of
Ehud Mendelson
Application No. 11/429,864
Filed: May 8, 2006
Attorney Docket No. NAV4

This is a decision on the petition under 37 CFR 1.181 (no fee) filed on July 6, 2011, to withdraw the holding of abandonment in the above application.

The application became abandoned for failure to file a reply to the Notice of Non-Compliant Amendment (37 CFR 1.121) (Notice) mailed June 25, 2010. A Notice of Abandonment was mailed on April 19, 2011.

In the present petition, petitioner requests that the holding of abandonment be withdrawn.

A review of the Official file record shows that a Notice of Non-Compliant Amendment (37 CFR 1.121) mailed July 2, 2009. On July 31, 2009, a response was timely filed. On November 13, 2009, a Notice of Non-Compliant Amendment was mailed. On December 11, 2009, a response was filed. On June 25, 2010, a Notice of Non-Compliant Amendment was mailed. On July 22, 2010, a response was filed. On April 19, 2011, a Notice of Abandonment was mailed.

Petitioner states "Attached is a copy of the answer to your office letter mail 06/25/2010 with the explanation as well as the copy of the head letter answer by the applicant by 07/23/2010 And a copy (from the patent office PAIR) of the marked claim amended, please see page 5 with the wrong marking on claim 5, and view the attached right page 5 where there is no marking on claim 5 just the word cancel , the page that is missing."

Petitioner should note that there is no evidence of record that shows that the amendment filed on July 22, 2010, contained a complete response to the Notice mailed June 25, 2010. Therefore, this application was properly held abandoned for failure to timely respond to the Notice, unless petitioner has evidence to show otherwise.

In view of the above the present petition is **dismissed**. Accordingly, petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

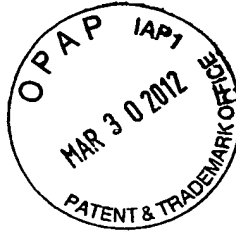
- (1) The reply required to the outstanding Office action or notice, unless previously filed.
- (2) The petition fee as set forth in 37 CFR 1.17(m), \$930 for small entity or \$1,860 for large entity;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Enclosures: Privacy Act Statement; and
Petition for Revival of an Application for Patent Abandoned Unintentionally under
37 CFR 1.137(b) – Form PTO/SB/64



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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EHUD MENDELSON
GAMBA GROUP LLC
11190 HERON BAY BLVD.
SUITE 916
CORAL SPRINGS, FL 33076

MAILED

JAN 30 2012

OFFICE OF PETITIONS

ON PETITION

In re Application of
Ehud Mendelson
Application No. 11/429,864
Filed: May 8, 2006
Attorney Docket No. NAV4

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Petitioner should note that there is no evidence of record that shows that the amendment filed on July 22, 2010, contained a complete response to the Notice mailed June 25, 2010. Therefore, this application was properly held abandoned for failure to timely respond to the Notice, unless petitioner has evidence to show otherwise.

In view of the above the present petition is **dismissed**. Accordingly, petitioner is encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application.

(1) The reply required to the outstanding Office action or notice, unless previously filed.

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

Any request for reconsideration of this decision should be submitted within **TWO (2) MONTHS** from the mail date of this decision.

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

/Andrea Smith/
Andrea Smith
Petitions Examiner
Office of Petitions

Enclosures: Privacy Act Statement; and
Petition for Revival of an Application for Patent Abandoned Unintentionally under
37 CFR 1.137(b) – Form PTO/SB/64

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: LAIR3009CIP/BEU	Patent Number: 7668067
Filing Date (or 371(b) or (f) Date): 2006-05-09	Issue Date: 2010-02-23
First Named Inventor: Ronnie Lai	
Title: POWER CONTROL DEVICE AND METHOD OF MULTI BASE POWERS FOR OPTICAL DISK DRIVE	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /ThomasJMoore/	Date 2010-08-20
Name (Print/Typed) Thomas J. Moore	Registration Number 28974
Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 1.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.	
<input type="checkbox"/> *Total of _____ forms are submitted.	

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF *WYETH**
(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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BACON & THOMAS, PLLC
625 SLATERS LANE
FOURTH FLOOR
ALEXANDRIA, VA 22314-1176

Mail Date: 08/26/2010

Applicant	: Ronnie Lai	: DECISION ON REQUEST FOR
Patent Number	: 7668067	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/429,942	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/09/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **900** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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United States Patent and Trademark Office
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FITZPATRICK CELLA HARPER & SCINTO
1290 Avenue of the Americas
NEW YORK NY 10104-3800

MAILED

NOV 15 2010

OFFICE OF PETITIONS

In re Application of	:	
Rie ENDO et al.	:	
Patent No. : 7,668,490 B2	:	DECISION ON PETITION
Issued: February 23, 2010	:	
Application No. 11/429,982	:	
Filed: May 9, 2006	:	
Attorney Docket No. 03500.125900	:	

This is a decision on the request filed June 21, 2010, requesting removal of information from the above identified application.

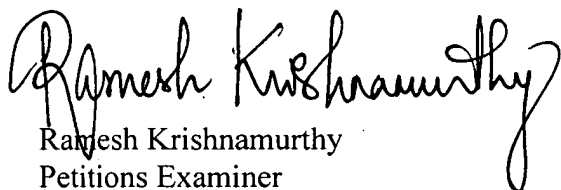
The petition is **GRANTED**.

Petitioner's request pertains to a "copy of a Request for Recalculation of Patent Term Adjustment in view of Wyeth filed May 13, 2010, ("Request")," and "Decision on Request for Recalculation of Patent Term Adjustment in view of Wyeth and Notice of Intent to Issue Certificate of Correction, mailed May 21, 2010, ("Decision")." The instant request is seeking "removal of both the erroneously issued decision and the Request from the file-wrapper of the present patent and correction of the PAIR database." Petitioner states that the Request was placed improperly in the file record of the instant application.

A review of the file record and the information being sought to be removed indicates that the Request belonged to Patent No. 7,668,499. Additionally, the Request had other header information thereon sufficient to indicate that it did not belong in the file record of the instant application/patent. It is noted that the Decision associated with the Request was machine generated. Accordingly, the petition is granted. In view of the guidance set forth in MPEP §724.05(III), the instant request is not being regarded as a petition, and as such a petition fee has not been charged.

In view of the above, the documents that were requested to be removed have been expunged from the instant application. As of mailing date of this decision, the corresponding images of the expunged documents in Image File Wrapper (IFW) have been "closed" thereby removing them from a list of publicly available documents associated with this application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4914.

A handwritten signature in black ink, reading "Ramesh Krishnamurthy". The signature is fluid and cursive, with the first letter of each word being capitalized and prominent.

Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



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August 24, 2010

Daniel G. Chung
Finnegan, Henderson, Farabow, Garrett
& Dunner, L.L.P.
901 New York Avenue, N.W.
Washington, DC 20001-4413

Patent No. : 7,753,843 B2
Ser. No. : 11/430,067
Inventor(s) : Mark Wood
Issued : July 13, 2010
Docket No. : 06530.0353-00000
Title : MEDICAL DEVICE POSITIONING SYSTEM

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing incorrect or erroneous assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1.17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-0025
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) 272-0460 or (703) 756-1814

vt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/430,167	05/09/2006	Kil-soo Jung	1101.0217C1	4049
89980	7590	11/10/2011	EXAMINER	
NSIP LAW			CHIO, TAT CHI	
P.O. Box 34688			ART UNIT	PAPER NUMBER
Washington, DC 20043			2481	
			NOTIFICATION DATE	DELIVERY MODE
			11/10/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

info@nsiplaw.com
uspto@nsiplaw.com
nsiplaw@gmail.com



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Rachael Lea Leventhal
NSIP Law
P.O. Box 34688
Washington DC 20043

In re Application of:
Jung
Appl. No.: 11/430167
Filed: May 9, 2006
For: Information Storage Medium Having Multi-Angle Data
Structure and Method Therefor

DECISION ON PETITION
UNDER 37 CFR § 1.59

This is a decision on the petition under 37 CFR § 1.59(b), filed on February 12 2010, to expunge information submitted pursuant to MPEP § 724.02.

The petition is **DISMISSED**.

Petitioner requests that the information submitted on February 12 2010 be expunged from the record as the information was unintentionally filed. The petition fee set forth in 37 CFR § 1.17(g) has NOT been paid.

A Petition to expunge information unintentionally submitted should include:

- (a) the Office can effect such return prior to the issuance of any patent on the application at issue;
- (b) it is stated that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted;
- (c) the information has not otherwise been made public;
- (d) there is a commitment on the part of the petitioner to retain such information for the period of any patent with regard to which such information is submitted;
- (e) it is established to the satisfaction of the Director that the information to be returned is not material information under 37 CFR 1.56; and
- (f) the petition fee as set forth in 37 CFR 1.17(g) is included.

A review of the file indicates that no statement has been made about irreparable harm to the party who submitted the information nor to the party in interest on whose behalf the information was submitted, no statement has been made about the information submitted has not otherwise been made public, nor has there been a commitment on the part of the petitioner to retain such information for the period of any patent.

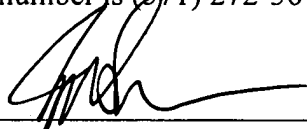
A review of the information submitted indicates that the information is drawn to the same area of technology as petitioner's claims, accordingly, it is not appropriate to make a final determination of whether or not the material requested to be expunged is "material," with "materiality" being

defined as any information which the examiner considers as being important to a determination of patentability of the claims.

The petition fee has not been paid.

During prosecution on the merits, the examiner will determine whether or not the information submitted on February 12 2010 is considered to be "material." Once prosecution on the merits is closed through allowance, applicant may re-submit a petition to expunge the information. No second fee is required for such a second submission of a petition under 37 CFR § 1.59 to expunge information. If the information is not considered by the examiner to be material, the information will be removed from the file.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-3612. A second point of contact is Chris Grant at (571) 272-7294.



Tod Swann, QAS
Technology Center 200



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David W. Highet, VP & Chief IP Counsel
Becton, Dickinson and Company
(Roylance Abrams Berdo & Goodman)
1 Becton Drive, MC 110
Franklin Lakes NJ 07417-1880

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SEP 24 2010

OFFICE OF PETITIONS

In re Application of :
Victor Chan, et al. :
Application No. 11/430,178 : DECISION GRANTING PETITION
Filed: May 5, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 49823 (P-5334) :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 17, 2010 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 10, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to Terri Johnson at (571) 272-2991.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

This application is being referred to Technology Center AU 1797 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **ROYLANCE, ABRAMS, BERDO &
GOODMAN, LLP**
1300 19th Street NW, Suite 600
Washington, DC 20036



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MAR 25 2011

OFFICE OF PETITIONS

SMITH, GAMBRELL & RUSSELL
1130 CONNECTICUT AVENUE, N.W., SUITE 1130
WASHINGTON DC 20036

In re Patent No. 7,480,998	:	
Issue Date: January 27, 2009	:	
Application No. 11/430,270	:	DECISION ON PETITION
Filed: May 8, 2006	:	
Attorney Docket No. 032405.250	:	

This is a decision on the petition under 37 CFR 1.182, filed February 15, 2011, requesting issuance of duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Office of Data Management is directed to issue duplicate Letters Patent.

As authorized, the \$400 fee for the petition under 37 CFR 1.182 has been charged to petitioners' credit card.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3230. Inquiries regarding the issuance of duplicate Letters Patent may be directed to Ollie Person in the Office of Data Management at (703) 756-1555.

A copy of this decision is being sent to Office of Data Management for issuance of duplicate Letters Patent.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)



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Paper No.

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JAN 10 2011

OFFICE OF PETITIONS

HEAD, JOHNSON & KACHIGIAN
228 W 17TH PLACE
TULSA OK 74119

In re Application of	:	
Ford et al.	:	
Application No. 11/430,335	:	
In re Patent No. 7,807,934	:	DECISION ON PETITION
Filing Date: May 9, 2006	:	PURSUANT TO 37 C.F.R.
Issue Date: October 5, 2010	:	§ 3.81(B)
Attorney Docket Number: BAI525-	:	
143/06125	:	
Title: PRINTED CIRCUIT BOARD	:	
HAVING PROTECTION MEANS AND A	:	
METHOD OF USE THEREOF	:	

This is a decision on the petition pursuant to 37 C.F.R. § 3.81(b), filed December 9, 2010, to correct the Assignee's information on the Issue Fee Transmittal Form PTOL-85(b).

The petition is **GRANTED**.

With this petition, Petitioner requests that a Certificate of Correction be issued to correct the assignee information that appears on the face of the patent. On December 9, 2010, Petitioner submitted a "Certificate of Correction" for this purpose, which requests the addition of assignee "Pace Plc., Saltaire, Shipley (GB)."

37 C.F.R. § 3.81(b), effective June 25, 2004, reads:

(b) After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in 3.11 before issuance of the patent, and must include a request for a certificate of correction under 1.323 of this chapter (accompanied

by the fee set forth in 1.20(a)) and the processing fee set forth in 1.17(i) of this chapter.

Petitioner has set forth that the assignment was submitted for recordation as set forth in 37 C.F.R. § 3.11 before issuance of the patent, and Office records confirm that an assignment was received in the Office on November 24, 2008, listing Pace Plc., Saltaire, Shipley of Great Britain as the assignee.

Payment of the required \$100 certificate of correction fee and the \$130 processing fee is acknowledged.

The Certificates of Correction Branch will be notified of this decision so that the requested Certificate of Correction can be issued, adding "Pace Plc., Saltaire, Shipley (GB)" as the assignee.

Telephone inquiries regarding *this decision* should be directed to the undersigned at (571) 272-3225. Any questions concerning the issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (703) 756-1814.

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions



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Paper No.

FISH & RICHARDSON P.C. (BO)
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

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SEP 08 2011

OFFICE OF PETITIONS

In re Application of	:	
Combs et al.	:	DECISION ON APPLICATION
Application No. 11/430,441	:	FOR
Filed: May 9, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 20443-0033001	:	
/ INCY0033-	:	

This is a decision on the "APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b)," filed August 29, 2011. Applicants request that the initial determination of patent term adjustment be corrected from four hundred twenty-four (424) days to five hundred forty-five (545) days.

The application for patent term adjustment is **GRANTED**.

The Office has updated the PALM screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is five hundred forty-five (**545**) days. A copy of the updated PALM screen, showing the correct determination, is enclosed.

On May 27, 2011, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment (PTA) to date is 424 days. The instant application for patent term adjustment was timely filed on August 29, 2011¹. Applicants assert that their response filed on November 3, 2009 was fully compliant and the Notice of Noncompliant Amendment mailed on March 2, 2010 was improper. Accordingly, applicants maintain that the reduction of 121 days entered pursuant to 37 CFR 1.704(c)(7) for the filing of the response to the Notice of Noncompliant Amendment on March 4, 2010 is not warranted.

¹ PALM records indicate that the Issue Fee was received on August 29, 2011.

Applicants' arguments have been considered, and found persuasive. 37 CFR 1.704(c)(7) provides that:

Submission of a reply having an omission (§1.135(c)), in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the reply having an omission was filed and ending on the date that the reply or other paper correcting the omission was filed.

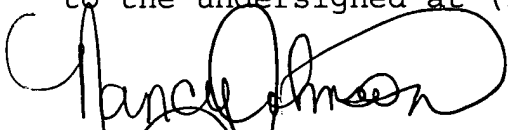
The argument is persuasive that there was no omission in the original response filed November 3, 2009. The entry of a period of reduction of 121 days for filing a response on March 4, 2010 to correct an omission in the response filed on November 3, 2009 is not warranted and is being removed.

In view thereof, the correct determination of patent term adjustment at the time of the mailing of the notice of allowance is FIVE HUNDRED FORTY-FIVE (525) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and if applicable, for the Office taking in excess of three years to issue the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.

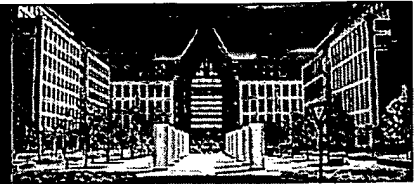


Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of REVISED PAIR Screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11430441

Search

Explanation of PTA Calculation

Explanation of PTE Calculation

PTA Calculations for Application: 11430441

Application Filing Date	05/09/2006	Overlapping Days Between (A and B) or (A and C)	0
Issue Date of Patent		Non-Overlapping USPTO Delays	545
A Delays	545	PTO Manual Adjustment	121
B Delays	0	Applicant Delay (APPL)	121
C Delays	0	Total PTA (days)	545

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
105	09/07/2011		P028	Adjustment of PTA Calculation by PTO	121		0
96	05/27/2011		MN/=	Mail Notice of Allowance			0
95	05/25/2011		OAR	Office Action Review			0
94	05/25/2011		IREV	Issue Revision Completed			0
93	05/25/2011		DVER	Document Verification			0
92	05/25/2011		N/=	Notice of Allowance Data Verification Completed			0
91	05/25/2011		DOCK	Case Docketed to Examiner in GAU			0
90	05/23/2011		CNTA	Allowability Notice			0
86	03/11/2011		FWDX	Date Forwarded to Examiner			0
89	03/09/2011		IDSC	Information Disclosure Statement considered			0
88	03/09/2011		RCAP	Reference capture on IDS			0
87	03/09/2011	03/09/2011	M844	Information Disclosure Statement (IDS) Filed			85
85	03/09/2011		A...	Response after Non-Final Action			0
84	03/09/2011		WIDS	Information Disclosure Statement (IDS) Filed			0
83	12/09/2010		ELC_RVW	Electronic Review			0
82	12/09/2010		EML_NTF	Email Notification			0
81	12/09/2010		MCTNF	Mail Non-Final Rejection			0
79	12/06/2010		CTNF	Non-Final Rejection			0
80	12/03/2010		EXIN	Examiner Interview Summary Record (PTOL - 413)			0
77	09/09/2010		FWDX	Date Forwarded to Examiner			0
74	09/09/2010		ABN9	Disposal for a RCE / CPA / R129			0
78	09/07/2010		IDSC	Information Disclosure Statement considered			0
76	09/07/2010		AMSB	Amendment Submitted/Entered with Filing of CPA/RCE			0
75	09/07/2010		RCEX	Request for Continued Examination (RCE)			0
72	09/07/2010		M844	Information Disclosure Statement (IDS) Filed			0
71	09/07/2010		WIDS	Information Disclosure Statement (IDS) Filed			0
70	09/07/2010		BRCE	Workflow - Request for RCE - Begin			0
69	06/07/2010		ELC_RVW	Electronic Review			0
68	06/07/2010		EML_NTF	Email Notification			0
67	06/07/2010		MCTFR	Mail Final Rejection (PTOL - 326)			0
66	06/02/2010		CTFR	Final Rejection			0
64	04/02/2010		FWDX	Date Forwarded to Examiner			0
63	03/04/2010	11/03/2009	A...	Response after Non-Final Action		121	57
62	03/03/2010		EML_NTR	Email Notification			0
61	03/02/2010		NINA	Mail Notice of Informal or Non-Responsive Amendment			0
58	12/16/2009		FWDX	Date Forwarded to Examiner			0
65	11/03/2009		IDSC	Information Disclosure Statement considered			0
60	11/03/2009		RCAP	Reference capture on IDS			0
59	11/03/2009		M844	Information Disclosure Statement (IDS) Filed			0
57.1	11/03/2009		A.I.	Informal or Non-Responsive Amendment after Examiner Action			0
57	11/03/2009		A...	Response after Non-Final Action			0
56	11/03/2009		WIDS	Information Disclosure Statement (IDS) Filed			0
55	08/03/2009		ELC_RVW	Electronic Review			0
54	08/03/2009		EML_NTF	Email Notification			0
53	08/03/2009	08/01/2009	MCTNF	Mail Non-Final Rejection	2		34
52	07/29/2009		CTNF	Non-Final Rejection			0
39	07/20/2009		EML_NTR	Email Notification			0
38	07/20/2009		PA..	Change in Power of Attorney (May Include Associate POA)			0
35	05/20/2009		FWDX	Date Forwarded to Examiner			0
49	04/01/2009		IDSC	Information Disclosure Statement considered			0
37	04/01/2009		RCAP	Reference capture on IDS			0
36	04/01/2009	04/01/2009	M844	Information Disclosure Statement (IDS) Filed			34
34	04/01/2009		ELC	Response to Election / Restriction Filed			0
33	04/01/2009		XT/G	Request for Extension of Time - Granted			0
30	04/01/2009		WIDS	Information Disclosure Statement (IDS) Filed			0

29	01/05/2009	ELC_RVW	Electronic Review	0
28	01/02/2009	EML_NTF	Email Notification	0
27	01/02/2009	07/09/2007 MCTRS	Mail Restriction Requirement	543 0.5
26	12/24/2008	CTRS	Restriction/Election Requirement	0
51	10/31/2008	IDSC	Information Disclosure Statement considered	0
32	10/31/2008	M844	Information Disclosure Statement (IDS) Filed	0
31	10/31/2008	RCAP	Reference capture on IDS	0
23	10/31/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
50	04/15/2008	IDSC	Information Disclosure Statement considered	0
22	04/15/2008	RCAP	Reference capture on IDS	0
21	04/15/2008	M844	Information Disclosure Statement (IDS) Filed	0
19	04/15/2008	WIDS	Information Disclosure Statement (IDS) Filed	0
48	10/05/2007	IDSC	Information Disclosure Statement considered	0
18	10/05/2007	M844	Information Disclosure Statement (IDS) Filed	0
17	10/05/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
16	03/29/2007	DOCK	Case Docketed to Examiner in GAU	0
14	01/10/2007	TSSCOMP	IFW TSS Processing by Tech Center Complete	0
47	01/09/2007	IDSC	Information Disclosure Statement considered	0
15.7	01/09/2007	M844	Information Disclosure Statement (IDS) Filed	0
15	01/09/2007	WIDS	Information Disclosure Statement (IDS) Filed	0
46	10/13/2006	IDSC	Information Disclosure Statement considered	0
13	10/13/2006	RCAP	Reference capture on IDS	0
12.7	10/13/2006	M844	Information Disclosure Statement (IDS) Filed	0
12	10/13/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
45	09/26/2006	IDSC	Information Disclosure Statement considered	0
11	09/26/2006	RCAP	Reference capture on IDS	0
10.7	09/26/2006	M844	Information Disclosure Statement (IDS) Filed	0
10	09/26/2006	WIDS	Information Disclosure Statement (IDS) Filed	0
9	08/02/2006	OIPE	Application Dispatched from OIPE	0
8	08/02/2006	COMP	Application Is Now Complete	0
7	07/10/2006	ADDFLFE	Additional Application Filing Fees	0
6	07/10/2006	OATHDECL	A statement by one or more inventors satisfying the requirement under 35 USC 115, Oath of the Applic	0
5	06/05/2006	INCD	Notice Mailed--Application Incomplete--Filing Date Assigned	0
4	05/19/2006	L194	Cleared by OIPE CSR	0
3	05/19/2006	CLSS	CASE CLASSIFIED BY OIPE	0
2	05/18/2006	SCAN	IFW Scan & PACR Auto Security Review	0
1	05/09/2006	IEXX	Initial Exam Team nn	0
0.5	05/09/2006	EFILE	Filing date	0

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DEC 19 2011
OFFICE OF PETITIONS

In re Patent No. 8,034,953	:
Combs et al.	:
Issue Date: October 11, 2011	: DECISION ON REQUEST FOR
Application No. 11/430,441	: RECONSIDERATION OF
Filed: May 9, 2006	: PATENT TERM ADJUSTMENT
Attorney Docket No. 20443-	: and
0033001 / INCY0033-	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the petition filed on December 9, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand one hundred sixty-six (1166) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein**. The patent term adjustment is corrected to indicate that the term of the above-identified patent is extended or adjusted by one thousand twenty-eight (**1028**) days.

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

BACKGROUND

On October 11, 2011, the above-identified application matured into U.S. Patent No. 8,034,953, with a revised patent term adjustment of 1,026 days. On December 9, 2011, patentee timely submitted this request for reconsideration of patent term

adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,166 days.

First, Patentee disputes the period of reduction of 2 days entered for applicant delay, pursuant to 35 U.S.C. § 154(b)(2)(C) and 37 CFR 1.704(b). Patentee argues that the period of reduction should be calculated based on a due date for reply of August 29, 2011, as the date three months from the mailing date of the Notice of Allowance was August 27, 2011, which falls over a weekend. This reduction has been reconsidered, and it is determined that entry of a reduction of 2 days pursuant to 35 U.S.C. §21(b) is not warranted. The reply was timely filed pursuant to 35 U.S.C. §21(b). There was no delay within the meaning of 37 CFR 1.704(b). Accordingly, the period of reduction of 2 days has been removed.

Further, Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on May 27, 2011, thereby closing examination of the application on that date. Thus, Patentees argue no continued examination took place during the 138 day period from May 27, 2011 (the mailing date of the Notice of Allowance) until October 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 138 days and be increased from 485 to 623 days. This argument is at issue.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including -

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 485 days based on the application having been filed under 35 U.S.C. 111(a) on May 9, 2006 and the patent not having issued as of the day after the three year date, May 10, 2009, and a request for continued examination under 132(b) having been filed on September 7, 2010. In other words, the entire 400-day period

(including the 138 day period beginning on May 27, 2011) from the date of filing of the request for continued examination to the date of issuance of the patent was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)¹. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing

¹ Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

- (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
- (2) Abandonment of the application; or
- (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," meaning that the limitations of paragraph 2 apply to this paragraph's extension of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issuance of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the

condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 2008 U.S. Dist. LEXIS 76063 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants extensions of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the

application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent. Thus, not including "any time consumed by" means not including in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b) (the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days taken up with or any time consumed by clauses (i)-(iii), including filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or taken up with the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the American Inventors Protection Act of 1999, as 35 U.S.C. 154(b).

By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a

patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long

as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures² permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Absent the filing of the request for continued examination, the prosecution of the application would have taken a different direction, which may or may not have resulted in the patent issuing within three years.

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

² Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

In this instance, a request for continued examination was filed on September 7, 2010, and the patent issued by virtue of that request on October 11, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on September 7, 2010 and ending on October 11, 2011 is not included in calculating Office delay.

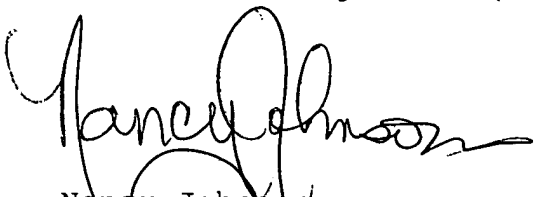
CONCLUSION

With respect to correction of the applicant delay, the Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by one thousand twenty-eight (1028) days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Encl: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 8,034,953 B2

DATED : **October 11, 2011**

DRAFT

INVENTOR(S) : Combs et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 1026 days

Delete the phrase “by 1026 days” and insert – by 1028 days--



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Minneapolis MN 55440-1022

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OFFICE OF PETITIONS

In re Patent No. 8,034,953	: FINAL AGENCY DECISION
Combs et al.	: ON REQUEST FOR
Issue Date: October 11, 2011	: RECONSIDERATION OF
Application No. 11/430,441	: DECISION ON APPLICATION
Filed: May 9, 2006	: FOR
Attorney Docket No. 20443-	: PATENT TERM ADJUSTMENT
0033001 / INCY0033	:

This is a decision on the "RESPONSE TO DECISION ON REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT AND NOTICE OF INTENT TO ISSUE CERTIFICATE OF CORRECTION" filed January 19, 2012, requesting reconsideration of the decision of December 19, 2011 and requesting that the patent term adjustment under 35 U.S.C. § 154(b) in the decision of December 19, 2011, be changed from one thousand twenty-eight (**1028**) days to one thousand one hundred sixty-six (1,166) days.

Patentees request that the decision on this renewed request for reconsideration of patent term adjustment be deferred or delayed until a final decision has been rendered in Abbott Biotherapeutics Corp. v. Kappos. There is no specific regulatory provision for requesting that a petition under 37 CFR 1.705(d) be held in abeyance.

The request for reconsideration of the decision of December 19, 2011, is granted to the extent that the decision of December 19, 2011, has been reconsidered; however, the request for reconsideration is **DENIED** with respect to making any change in the patent adjustment determination under 35 U.S.C. § 154(b) of 1028 days indicated in the decision of December 19, 2011. This decision may be viewed as a final agency action within the meaning of 5 U.S.C. § 704 and for purposes of seeking judicial review. See MPEP 1002.02.

BACKGROUND

On October 11, 2011, the above-identified application matured into U.S. Patent No. 8,034,953, with a revised patent term adjustment of 1,026 days. On December 9, 2011, patentee timely submitted a request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 1,166 days. Patentee maintained, *inter alia*, that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contended that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argued that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on May 27, 2011, thereby closing examination of the application on that date. Thus, Patentee argued no continued examination took place during the 138 day period from May 27, 2011 (the mailing date of the Notice of Allowance) until October 11, 2011 (the date the patent was issued). As such, Patentee maintained that the "B delay" should include the 138 days and be increased from 485 to 623 days.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including –

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of

the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 373 days based on the application having been filed under 35 U.S.C. 111(a) on January 29, 2007 and the patent not having issued as of the day after the three year date, January 30, 2010, and a request for continued examination under 132(b) having been filed on February 7, 2011. In other words, the 132-day period from the date of filing of the request for continued examination to the date of issuance of the patent was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C.

132(b)¹. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the three-year period for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56365, 56376 (Sept. 18, 2000) (response to comment 8). Thus,

¹ Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

- (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
- (2) Abandonment of the application; or
- (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," meaning that the limitations of paragraph 2 apply to this paragraph's extension of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issuance of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under

section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period is not counted continuously from the date of filing of the application to the day 3 years after the filing date of the application, but rather the three-year period for the Office to issue a patent is counted not beginning on the date of filing of the application in the United States but not including "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F. Supp.2d 138 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants extensions of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including in "that 3-year period" any days it takes to prosecute the application as specified in clauses (i)-(ii). The "any" signifies that the days taken up are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. The "time consumed by" refers to the days taken up with 1) continued examination of the application under section 132(b) (the filing

of a request for continued examination), 2) interference proceedings, 3) secrecy orders, 4) appellate review or 5) any delay in processing requested by applicant, except as permitted by paragraph (3)(C), which allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days taken up with or any time consumed by clauses (i)-(iii), including filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or taken up with the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the American Inventors Protection Act of 1999, as 35 U.S.C. 154(b).

By nature, the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or

objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on September 7, 2010, and the patent issued by virtue of that request on October 11, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on September 7, 2010 and ending on October 11, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is **DENIED**.

The patent term adjustment remains 1028 days, as indicated in the decision of December 19, 2011. A certificate of correction indicating that the term of the above-identified patent is

Patent No. 8,034,953

Application No. 11/430,441

Page 10

extended or adjusted by one thousand twenty-eight (1028) days
issued on February 7, 2012.

Telephone inquiries specific to this matter should be directed
to Nancy Johnson, Senior Petitions Attorney at (571) 272-3219.

A handwritten signature in black ink, appearing to read 'Anthony Knight', with a stylized flourish at the end.

Anthony Knight
Director, Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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Synopsys/Fenwick
Silicon Valley Center
801 California Street
Mountain View CA 94041

MAILED
OCT 07 2011
OFFICE OF PETITIONS

In re Patent No. 7,398,458	:	
Issued: July 8, 2008	:	
Application No. 11/430,478	:	NOTICE
Filed: May 8, 2006	:	
Attorney Docket No. 22524-18047/US	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed September 22, 2011.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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FEB 24 2012

OFFICE OF PETITIONS

BUCHANAN, INGERSOLL & ROONEY PC
POST OFFICE BOX 1404
ALEXANDRIA, VA 22313-1404

In re Patent No. 7,261,305 :
Issue Date: August 28, 2007 :
Application No. 11/430,515 : **ON PETITION**
Filed: May 8, 2006 :
Patentee: Jeffrey Eaton Cole :

This is a decision on the petition under 37 CFR 1.378(c), filed December 23, 2011, to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

The petition is **GRANTED**.

This patent expired on August 28, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition was timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. Petitioner is advised that the mere filing of a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) must also be submitted. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: JEFFREY EATON COLE
40 GOLD CREEK CT.
DANVILLE, CA 94506



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HEWLETT-PACKARD COMPANY
INTELLECTUAL PROPERTY ADMINISTRATION
3404 E. HARMONY ROAD
MAIL STOP 35
FORT COLLINS CO 80528

MAILED
SEP 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,873,352 :
Issue Date: January 18, 2011 :
Application No. 11/430,547 : NOTICE
Filed: May 9, 2006 :
Attorney Docket No. 200900412-2 :

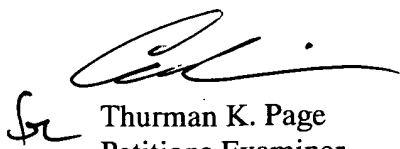
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.


Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111020

DATE : October 20, 2011

TO SPE OF : ART UNIT 1622

SUBJECT : Request for Certificate of Correction on Patent No.: 7592336

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

/ANDREW D KOSAR/
Supervisory Patent Examiner.Art Unit 1622

Receipt date: 09/28/2011

11430611 - GAU: 1622

OK TO ENTER: /A.D.K./

10526-US-NP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF NY SIN ET AL.
FOR: HEPATITIS C VIRUS INHIBITORS
APPLICATION NO: 11/430,611
PATENT NO: 7,592,336
ART UNIT: 1626
CONFIRMATION NO: 5742

APPLICATION DATE: 05/09/2006
PATENT GRANT DATE: 09/22/2009
EXAMINER: BIANCHI, KRISTIN A.
USPTO CUSTOMER NO: 23914

TRANSMITTED VIA EFS-WEB
Certificate of Corrections Branch
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

REQUEST FOR CERTIFICATE OF CORRECTION OF PATENT
FOR APPLICANT'S MISTAKE (37 C.F.R. §1.323)

Sir:

The patentees through their agent hereby respectfully request that a certificate of correction be issued to correct printing errors in accordance with the attached Certificate of Correction Form 1050.

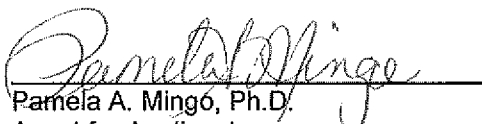
Pursuant to 37 C.F.R §1.323, patentees request that a certificate of correction be issued for mistakes by patentees. The requested corrections for mistakes by patentees are clerical or typographical in nature and do not involve such changes in the patent as would constitute new matter or would require re-examination.

Please send the certificate to the address registered with customer number 23914. The assignment on the above patent was recorded on August 7, 2006, and can be found on Reel 018064, Frame 0537 (10 pages) to Assignee, Bristol-Myers Squibb Company.

Please charge the fee set forth in §1.20(a) of \$100.00 and any additional fees to Deposit Account No. 19-3880 of the undersigned. The Commissioner is hereby authorized to charge any additional fees under 37 C.F.R. §1.17 which may be required, or credit any overpayment, to Account No. 19-3880 in the name of Bristol-Myers Squibb Company.

Respectfully submitted,

Bristol-Myers Squibb Company
Patent Department
P.O. Box 4000
Princeton, NJ 08543-4000


Pamela A. Mingó, Ph.D.
Agent for Applicants
Reg. No. 48,256
Phone: 203-677-7669
Date: Sept. 28, 2011



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : **7673836**
Ser. No. **11/430631**
Inventor(s) : **WALLOCK, OLLIE**
Issued : **03/09/2010**
Title : **ADJUSTABLE HEAD AND WRIST SUPPORT**
Docket No. : **6196-0002-1**

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1. 17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:

**Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450**

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

A Certificate of Correction will be issued for the remaining errors.

Omega Lewis
For Mary Diggs
Decisions & Certificates
of Correction Branch
(703)756-1575 or (703) 756-1814

MCCORMICK, PAULDING & HUBER LLP
185 ASYLUM STREET, CITY PLACE II
HARTFORD CT 06103

OL



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MATTHIAS SCHOLL
14781 MEMORIAL DRIVE
SUITE 1319
HOUSTON TX 77079

MAILED

JUL 01 2011

OFFICE OF PETITIONS

In re Application of
Zecang GU
Application No. 11/430,690
Filed: May 08, 2006
Attorney Docket No. TJCZ-01801-UUS

:
:
: **DECISION ON PETITION**
:
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 24, 2011 to revive the above-identified application.


The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the Notice to File Corrected Application Papers mailed January 05, 2011. The Notice set a period for reply of two (2) months from the mail date of the Notice. Accordingly, the application became abandoned on March 06, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of replacement drawings, (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay. Accordingly, the reply to the Notice to File Corrected Application Papers of January 05, 2011 is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4231.

This application is being referred to the Office of Data Management for processing into a patent.


Michelle R. Eason
Paralegal Specialist
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**CHOATE HALL & STEWART LLP
TWO INTERNATIONAL PLACE
BOSTON MA 02110**

MAILED

NOV 30 2010

OFFICE OF PETITIONS

In re Application of :
Jonathan H. Dinsmore :
Application No. 11/430,693 : **DECISION ON PETITION**
Filed: May 9, 2006 :
Attorney Docket No. 2006866-0053 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed June 24, 2008, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 25, 2008. The Notice of Abandonment was mailed April 2, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1651 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Kevin M. Farrell**
PIERCE ATWOOD LLP
One New Hampshire Avenue
Suite 350
Portsmouth, NH 03801

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 11/10/11

TO SPE OF : ART UNIT: 1738

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/430,743 Patent No. 7,922,993

CofC mailroom date 11/4/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Ernest C. White, LIE

**Certificates of Correction Branch
703-756-1814 _____**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

OK TO ENTER.

/Stanley S. Silverman/

1736

SPE

Art Unit



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Commissioner for Patents
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JUL 25 2011

OFFICE OF PETITIONS

NSIP LAW
P.O. Box 34688
Washington DC 20043

In re Application of :
Jung-Wan Ko, et al. :
Application No. 11/430,972 : **ON PETITION**
Filed: May 10, 2006 :
Atty Docket No.: 1101.0158CC1 :

This is a decision on the petition filed June 20, 2011, under 37 CFR 1.182 requesting the withdrawal of a previously recorded terminal disclaimer.

The petition is **GRANTED**.

Petitioner explains that the terminal disclaimer filed April 20, 2009, was defective and should not have been approved. Further, petitioner states that in view of the extensive changes to the claims since the Office Action of August 25, 2008, the requirement for the terminal disclaimer is moot. Accordingly, petitioner requests that the Terminal Disclaimer be withdrawn.

A review of the terminal disclaimer filed April 20, 2009, confirms that the terminal disclaimer contained the language "the application shall be enforceable only for and during such period that the legal title to said patent shall be the same as the legal title to...", rather than "the application shall be enforceable only for and during such period that said patent is commonly owned with..." Since the terminal disclaimer filed April 20, 2009, fails to contain the "commonly owned" language required by 37 CFR 1.321(c)(3), the terminal disclaimer is disapproved.

As the examiner has concurred, the terminal disclaimer will be withdrawn.

The application is being referred to Technology Center Art Unit 2627 for further processing consistent with this decision.

Telephone inquiries related to this decision may be directed to the undersigned at (571) 272-3204. Inquiries relating to further prosecution should be directed to the Technology Center.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/431,140	05/08/2006	Sorin Grunwald	10179-700.200	5492
66854	7590	02/07/2011		
SHAY GLENN LLP 2755 CAMPUS DRIVE SUITE 210 SAN MATEO, CA 94403			EXAMINER REARDON, ROCHELLE D	
			ART UNIT 3777	PAPER NUMBER
			MAIL DATE 02/07/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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United States Patent and Trademark Office
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SHAY GLENN LLP
2755 CAMPUS DRIVE
SUITE 210
SAN MATEO CA 94403

In re Application of:
GRUNWALD, SORIN et al
Serial No. 11/431,140
Filed: May 8, 2006
Docket: 10179-700.200

Title: ENDOVENOUS ACCESS AND
GUIDANCE SYSTEM UTILIZING
NON-IMAGE BASED ULTRASOUND

:
:
:
:
: DECISION ON PETITION
: UNDER 37 CFR § 1.181

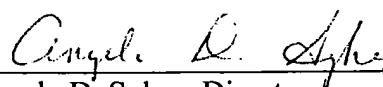
This is a decision on the petition filed on October 27, 2010 under 37 CFR 1.181 requesting withdrawal of the objection to claims 21, 34-39 in the final rejection of Dec. 10, 2009.

The petition is **Granted**.

In finding petitioner's points of argument persuasive, the requested relief is granted. Since the objection of claims 21, 34-38 does not include any specific reasons, the objection to the claims in the final rejection of December 10, 2009 is hereby withdrawn.

The application is being forwarded to the examiner via the Supervisory Patent Examiner of Art Unit 3777 for preparation of an Examiner's Answer. Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

Petition granted.



Angela D. Sykes, Director
Technology Center 3700



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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, P O BOX 224
MONROE, CT 06468

MAILED

NOV 18 2010

OFFICE OF PETITIONS

In re Application of	:	
Ketola et al.	:	
Application No. 11/431,144	:	ON PETITION
Filed: May 9, 2006	:	
Attorney Docket No. 944-003.353	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed October 20, 2010, to revive the above-identified application.


The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 25, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on June 26, 2009. A Notice of Abandonment was mailed October 6, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This application is being referred to Technology Center 2629 for further examination on the merits


Alicia Kelley
Petitions Examiner
Office of Petitions



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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
PORTLAND, OR 97204

MAILED

FEB 15 2011

OFFICE OF PETITIONS

In re Application of	:
Ian C. Wright, et al.	:
Application No. 11/431,145	: DECISION DISMISSING PETITION
Filed: May 8, 2006	: UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 7180-83088-03	:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 14, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added).

In this case, the petition was not received in the Office of Petitions for consideration until after 5:00 pm. Therefore, as the case has now issued, the petition to withdraw from issue cannot be granted.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed. Accordingly, the \$810 filing fee and the \$130 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement have been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Petitioner is advised, that while petitions to withdraw from issue may be electronically filed to the Commissioner for Patents, as was done in this case, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. *See* MPEP § 1308.

Telephone inquiries concerning this decision should be directed to undersigned at (571) 272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



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KLARQUIST SPARKMAN, LLP
121 S.W. SALMON STREET
PORTLAND OR 97204

MAILED
MAR 10 2011
OFFICE OF PETITIONS

In re Application of
Ian C. Wright, et al..
Application No. 11/431,145
Filed: May 8, 2006
Attorney Docket No. 7180-83088-03

:
:
: DECISION ON PETITION
: UNDER 37 CFR 1.78(a)(6)
:

This is a decision on the petition under 37 CFR 1.78(a)(6), filed February 14, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(e) for the benefit of priority to a prior-filed provisional application.

The petition is **DISMISSED**.

MPEP 1481.03(b) states:

Under no circumstances can a Certificate of Correction be employed to correct an applicant's mistake by adding or correcting a priority claim under 35 U.S.C. 119(e) for an application filed on or after November 29, 2000.

Section 4503 of the American Inventors Protection Act of 1999 (AIPA) amended 35 U.S.C. 119(e)(1) to state that:

No application shall be entitled to the benefit of an earlier filed provisional application under this subsection unless an amendment containing the specific reference to the earlier filed provisional application is submitted at such time during the pendency of the application as required by the Director. The Director may consider the failure to submit such an amendment within that time period as a waiver of any benefit under this subsection. The Director may establish procedures, including the payment of a surcharge, to accept an unintentionally delayed submission of an amendment under this section *during the pendency of the application*. (emphasis added)

A Certificate of Correction is NOT a valid mechanism for adding or correcting a priority claim under 35 U.S.C. 119(e) after a patent has been granted on an application filed on or after November 29, 2000.

The Certificate of Correction accompanying the petition includes benefit claims to provisional application nos. 60/552,521 and 60/657,261. In view of the above, the filing of a petition under 37 CFR §§ 1.78(a)(3) and 1.78(a)(6), along with the submission of a Certificate of Correction, is not the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior filed provisional application after issuance of the application into a patent. Petitioner may wish to seek such a benefit claim in a reissue application. See MPEP 1402.

As authorized, the \$1410 fee required by 37 CFR 1.78(a)(6)(ii) has been charged to petitioner's deposit account.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to April M. Wise at (571) 272-1642.

/dab/
David Bucci
Petitions Examiner
Office of Petitions



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Michael A. Guth
2-2905 East Cliff Drive
Santa Cruz, CA 95062

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of	:	
Elaine M. Knight	:	
Application No. 11/431,218	:	DECISION ON PETITION
Filed: May 9, 2006	:	TO WITHDRAW
Attorney Docket No. 1062-US	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 18, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. A request to withdraw will not be approved unless at least 30 (thirty) days would remain between the date of approval and the later of the expiration date of a time to file a response or the expiration date of the maximum time period which can be extended under 37 C.F.R. § 1.136(a).

The request was signed by Michael A. Guth on behalf of all attorneys of record. All attorneys/agents have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first named inventor Elaine Knight at the address indicated below.

There is an outstanding Office action mailed July 21, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Elaine Knight**
400 Red Hawk Lane
Aptos, CA 95003



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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/431,218	05/09/2006	Elaine M. Knight	1062-US

MICHAEL A. GUTH
2-2905 EAST CLIFF DRIVE
SANTA CRUZ, CA 95062

CONFIRMATION NO. 6730
POWER OF ATTORNEY NOTICE



Date Mailed: 11/08/2010

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/18/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/tsjohnson/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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**Brake Hughes PLC
C/O Intellevate
P.O. Box 52050
Minneapolis MN 55402**

**MAILED
DEC 13 2010
OFFICE OF PETITIONS**

In re Application of
Nichols, Scott K.
Application No. 11/431,286
Filed: May 10, 2006
Attorney Docket No. **0012-002001**

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed November 16, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by William Hughes on behalf of all attorneys of record who are associated. All attorneys/agents associated have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the inventor Scott Nichols at the address indicated below. There is an outstanding Office action mailed July 02, 2010 that requires a reply from the applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **SCOTT K. NICHOLS
3772 SUNRIDGE DRIVE
PARK CITY UT 84098**



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**TAROLLI, SUNDHEIM, COVELL
& TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND, OH 44114**

MAILED

FEB 28 2011

OFFICE OF PETITIONS

In re Patent No. 7,320,580
Issue Date: January 22, 2008
Application No. 11/431,298
Filed: May 10, 2006
Attorney Docket No. RIP-8086-3

NOTICE

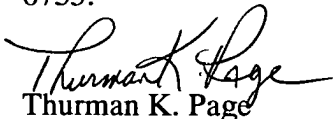
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane C. Goodwyn at (571) 272-6735.


Thurman K. Page
Petitions Examiner
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

X

Paper No.: _____

DATE : April 29, 2011

TO SPE OF : ART UNIT 2813

SUBJECT : Request for Certificate of Correction for Appl. No. 11/431336 patent No. 7785995

C of C mailroom date: 04-13-11

Please respond to this request for a certificate of correction within 7 days.

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

Magdalene Talley

Certificates of Correction Branch
571-272- 0423

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Matthew Landau/ 2813

SPE

Art Unit



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/431,367	05/10/2006	Satoru Maeda	450100-05107.2	7890

20999 7590 11/17/2011
FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK, NY 10151

EXAMINER

SCHNURR, JOHN R

ART UNIT	PAPER NUMBER
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2421

MAIL DATE	DELIVERY MODE
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11/17/2011

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

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NOV 17 2011

**DIRECTOR OFFICE
TECHNOLOGY CENTER 2400**

FROMMER LAWRENCE & HAUG
745 FIFTH AVENUE- 10TH FL.
NEW YORK NY 10151

In re Application of:
Satoru Maeda et al.
Application No. 11/431,367
Filed: May 10, 2006
For: **INFORMATION PROCESSING
SYSTEM, INFORMATION
PROCESSING APPARATUS AND
METHOD, RECORDING MEDIUM,
AND PROGRAM**

**DECISION ON PETITION
TO MAKE SPECIAL**

This is a decision on the petition, filed on 10 May 2006, under 37 C.F.R. §102(d) and M.P.E.P. § 708.02(VIII): Accelerated Examination, to make the above-identified application special.

The petition is **GRANTED**.

M.P.E.P. § 708.02, Section VIII which sets out the prerequisites for a grantable petition for Accelerated Examination under 37 C.F.R. § 102(d) states in relevant part:

A new application (one which has not received any examination by the examiner) may be granted special status provided that applicant (and this term includes applicant's attorney or agent) complies with each of the following items:

- (A) Submits a petition to make special accompanied by the fee set forth in 37 CFR 1.17(h);
- (B) Presents all claims directed to a single invention, or if the Office determines that all the claims presented are not obviously directed to a single invention, will make an election without traverse as a prerequisite to the grant of special status;
- (C) Submits a statement(s) that a pre-examination search was made, listing the field of search by class and subclass, publication, Chemical Abstracts, foreign patents, etc. A search made by a foreign patent office satisfies this requirement;
- (D) Submits one copy each of the references deemed most closely related to the subject matter encompassed by the claims if said references are not already of record; and
- (E) Submits a detailed discussion of the references, which discussion points out, with the particularity required by 37 CFR 1.111 (b) and (c), how the claimed subject matter is patentable over the references.

Applicant's submission of 10 May 2006 meets all the criteria set out above. Accordingly, the petition is **GRANTED**.

The office regrets the delay in granting the petition. Although examination has begun, the application will continue to be special throughout the entire course of prosecution.

The application file is being forwarded to the Examiner for accelerated examination in accordance with M.P.E.P. § 708.02. If the application is subsequently allowed, it will be given priority for printing. See M.P.E.P. § 1309.

/Christopher Grant/

Christopher Grant

Technology Center 2400

Networking, Multiplexing, Cable and Security

571-272-7294



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/431,394	05/10/2006	Satoru Maeda	450100-05107.3	7220
20999	7590	02/24/2011		
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			EXAMINER SCHNURR, JOHN R	
			ART UNIT 2421	PAPER NUMBER
			MAIL DATE 02/24/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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WASHINGTON, DC 20231
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FEB 24 2011

DIRECTOR OFFICE
TECHNOLOGY CENTER 2400

Frommer Lawrence & Haug
745 Fifth Avenue – 10TH FL.
New York, NY 10151

In re Application of: Satoru Maeda et al.
Application No. 11/431,394
Filed: May, 10 2006
For: **INFORMATION PROCESSING
SYSTEM, INFORMATION
PROCESSING APPARATUS AND
METHOD, RECORDING MEDIUM,
AND PROGRAM**

DECISION ON PETITION
UNDER 37 C.F.R. § 1.181

This is a decision on the petition filed July, 16 2010 under 37 CFR § 1.181 to have the Office re-mail the Non- Compliant communication mailed on April 16, 2010 because it was not received by applicant's representatives.

The petition listed reasonable explanations why the communication was not received and it would have been granted. However, an amendment submitted with the petition cured the items in the March 19, 2010 amendment and therefore a re-mailing of the Non- Compliant communication is not necessary.

Accordingly, the petition is **DISMISSED AS MOOT.**

The application is being forwarded to the Technical Support Staff for processing of the RCE.

Any inquiry concerning this decision should be directed to the undersigned whose telephone number is (571) 272-7294.

/Christopher Grant/

Christopher Grant
Workgroup Quality Assurance Specialist
Technology Center 2400
Network, Multiplex, Cable and Security



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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 08/04/2010

Applicant	: Yoshihiro Takaishi	: DECISION ON REQUEST FOR
Patent Number	: 7655969	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/431,509	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **667** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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CROWELL & MORING LLP
INTELLECTUAL PROPERTY GROUP
P.O. BOX 14300
WASHINGTON, DC 20044-4300

Mail Date: 10/07/2010

Applicant	: Masahiro Hashimoto	: DECISION ON REQUEST FOR
Patent Number	: 7650391	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/431,525	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/11/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **756** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/431,619	05/11/2006	Masahiko Sato	05-52662	8120
79326	7590	02/14/2012		
Fujitsu Patent Center Fujitsu Management Services of America, Inc. 2318 Mill Road, Suite 1010 Alexandria, VA 22314			EXAMINER PATEL, VISHAL I	
			ART UNIT 1746	PAPER NUMBER
			NOTIFICATION DATE 02/14/2012	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

fpc-mailroom@us.fujitsu.com
eoamule@system.foundationip.com
tiep.nguyen@us.fujitsu.com



UNITED STATES PATENT and TRADEMARK OFFICE

UNDER SECRETARY OF COMMERCE FOR INTELLECTUAL PROPERTY AND
DIRECTOR OF THE UNITED STATES PATENT AND TRADEMARK OFFICE
WASHINGTON, D.C. 20231
WWW.USPTO.GOV

Mailed: 2/14/12

In re application of
SATO et al.

Application Number: 11/431,619

Filed: May 11, 2006

For: OPTICAL COMPONENT LENS
ASSEMBLING APPARATUS

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**DECISION ON
PETITION**

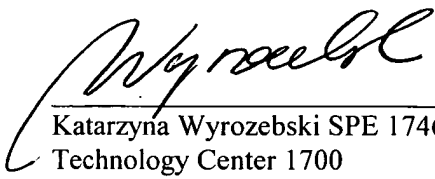
This is a decision on the petition filed on February 9, 2012 to correct inventorship in a patent under 37 CFR 1.48(b). Petition requests removal of Masahiko SATO, Yukihiro OHASHI and Hideaki NAMIKI as inventors in the instant application due to amendments and/or cancellation of the originally filed claims.

Decision

37 CFR 1.48(b) requires that the petition is accompanied by: (1) A request including a statement identifying each named inventor who is being deleted and that the inventor's invention is no longer being claimed in the application and; and (2) the fee set forth in 37 CFR 1.17(i).

The instant petition fulfills the requirements under 37 CFR 1.48 (b). Remaining inventors in the instant application are Mitsuji MATSUMOTO and Yoshihiro HINO.

The petition is **GRANTED**.


Katarzyna Wyrozebski SPE 1746
Technology Center 1700
Chemical and Materials Engineering

FUJITSU PATENT CENTER
2318 Mill Road
Suite 1010
Alexandria, VA 22314



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**POSZ LAW GROUP, PLC
12040 SOUTH LAKES DRIVE
SUITE 101
RESTON VA 20191**

MAILED

NOV 10 2011

In re Patent No. 7,825,991	:	OFFICE OF PETITIONS
Issue Date: November 2, 2010	:	
Application No. 11/431,624	:	DECISION ON PETITION
Filed: May 11, 2006	:	
Attorney Docket No. 01-1203	:	

This is a decision on the petition filed October 11, 2011, under 37 CFR 1.182, requesting issuance of a duplicate Letters Patent for the above-identified patent.

The petition is **GRANTED**.

The Publishing Division is directed to issue a duplicate Letters Patent.

The petition fee of \$400 under the provisions of 37 CFR 1.182 has been paid.

Telephone inquiries concerning this decision may be directed to Diane Goodwyn at (571) 272-6735.

Inquiries regarding the issuance of a duplicate Letters Patent may be directed to Ollie Person at (703) 756-1555 in the Office of Data Management.

A copy of this decision is being sent to the Office of Data Management for issuance of a duplicate Letters Patent.

Thurman K. Page
Petitions Examiner
Office of Petitions

cc: Ollie Person, Randolph Square, 9th Floor, Room D30-A (Fax No. (571) 270-9764)
Kimberly Terrell, Randolph Square, 9th Floor, Room D33 (Fax No. (571) 270-9958)



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MIKHAIL TARNOPOLSKY
7110 RIDGE COURT
BROOKLYN, NY 11209

MAILED

OCT 28 2010

OFFICE OF PETITIONS

In re Application of
Milhail Tarnopolsky et al
Application No. 11/431,635
Filed: May 11, 2006
Attorney Docket No.

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ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 3, 2010, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

Advisory Action Before the Filing of an Appeal Brief	Application No. 11/431,635	Applicant(s) TARNOPOLSKY ET AL.	
	Examiner David M. Fenstermacher	Art Unit 3656	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 03 September 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.

b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☒ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because

(a) ☒ They raise new issues that would require further consideration and/or search (see NOTE below);

(b) ☐ They raise the issue of new matter (see NOTE below);

(c) ☒ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: The amendment does not overcome the rejection. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: _____.

Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.

12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____

13. ☐ Other: _____.

/David M. Fenstermacher/
 Primary Examiner, Art Unit 3656



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MIKHAIL TARNOPOLSKY
7110 RIDGE COURT
BROOKLYN, NY 11209

MAILED

MAY 10 2011

OFFICE OF PETITIONS

In re Application of
Mikhail Tarnopolsky et al
Application No. 11/431,635
Filed: May 11, 2006
Attorney Docket No.

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ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed December 13, 2010 and supplemented on January 3, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

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By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

11/431,635

Applicant(s)

TARNOPOLSKY ET AL.

Examiner

David M. Fenstermacher

Art Unit

3656

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 13 December 2010 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:
- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
- Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
- (a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ They raise the issue of new matter (see NOTE below);
- (c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
- The status of the claim(s) is (or will be) as follows:
- Claim(s) allowed: _____.
- Claim(s) objected to: _____.
- Claim(s) rejected: _____.
- Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/David M. Fenstermacher/
Primary Examiner, Art Unit 3656



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MIKHAIL TARNOPOLSKY
7110 RIDGE COURT
BROOKLYN, NY 11209

MAILED

JUL 18 2011

OFFICE OF PETITIONS

In re Application of
Mikhail Tarnopolsky et al
Application No. 11/431,635
Filed: May 11, 2006
Attorney Docket No.

ON PETITION

This is a decision on the renewed petition under 37 CFR 1.137(b), filed June 28, 2011, to revive the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "**Renewed Petition under 37 CFR 1.137(b)**." This is **not** final agency action within the meaning of 5 U.S.C. § 704.

A grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(c). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Commissioner may require additional information. See MPEP 711.03(c)(III)(C) and (D). The instant petition lack(s) item(s) (1).

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of July 6, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2)), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination (RCE) and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). *See* MPEP 711.03(c)(III)(A)(2). Since the amendment submitted does not *prima facie* place the application in condition for allowance, the reply required must be a Notice of Appeal (and appeal fee), RCE, or the filing of a continuing application under 37 CFR 1.53(b).

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
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By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: (571) 273-8300
 ATTN: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

Attachment: Advisory Action

**Advisory Action
Before the Filing of an Appeal Brief**

Application No.

11/431,635

Applicant(s)

TARNOPOLSKY ET AL.

Examiner

DAVID M. FENSTERMACHER

Art Unit

3656

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 28 June 2011 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☐ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: _____.
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☐ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____.
13. ☐ Other: _____.

DAVID M FENSTERMACHER
Primary Examiner
Art Unit: 3656



UNITED STATES PATENT AND TRADEMARK OFFICE

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Alexandria, VA 22313-1450
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MIKHAIL TARNOPOLSKY
7110 RIDGE COURT
BROOKLYN, NY 11209

MAILED

SEP 23 2011

OFFICE OF PETITIONS

In re Application of
Mikhail Tarnopolsky et al
Application No. 11/431,635
Filed: May 11, 2006
Attorney Docket No.

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ON PETITION

This is a decision on the renewed petition under the unintentional provisions of 37 CFR 1.137(b), filed September 6, 2011, to revive the above-identified application.

The petition is **GRANTED**.

37 CFR 1.137(b)(3) requires a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Since the statement contained in the instant petition varies from the language required by 37 CFR 1.137(b)(3), the statement contained in the instant petition is being construed as the statement required by 37 CFR 1.137(b)(3) and petitioner must notify the Office if this is **not** a correct interpretation of the statement contained in the instant petition.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This matter is being referred to Technology Center AU 3656 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

Irvin Dingle
Petition Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

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KOS PHARMACEUTICALS, INC.
1 CEDAR BROOK DRIVE
CRANBURY, NJ 08512-3618

MAILED
JUL 19 2011
OFFICE OF PETITIONS

In re Application of
Perry GENOVA, et al.
Application No. 11/431,687
Filed: May 9, 2006
Attorney Docket No. 900001-2116US

DECISION ON PETITION
UNDER 37 CFR 1.137(b)

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 2, 2011, to revive the above-identified application.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, February 18, 2009, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 19, 2009.

The petition is **DISMISSED**.

It appears the petition does not set forth petitioner's registration number.

37 CFR 1.33 (b) states that:

Amendments and other papers filed in the application must be signed by:

- (1) An attorney or agent appointed in compliance with § 1.34(b);
- (2) A registered attorney or agent not of record who acts in a Representative capacity under the provisions of § 1.34(a);

37 CFR 1.34 states:

"When a patent practitioner acting in a representative capacity appears in person or signs a paper in practice before the United States Patent and Trademark Office in a patent case, his or her personal appearance or signature shall constitute a representation to the United States Patent and Trademark Office that under the provisions of this subchapter and the law, he or she is authorized to represent the particular party on whose behalf he or she acts. In filing such a paper, the patent practitioner must set forth his or her registration number, his or her name and signature. Further proof of authority to act in a representative capacity may be required."

Further, a grantable petition under 37 CFR 1.137(b) must be accompanied by: (1) the required reply, unless previously filed; (2) the petition fee as set forth in 37 CFR 1.17(m); (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional; and (4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required by 37 CFR 1.137(d). Where there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137 was unintentional, the Director may require additional information. See MPEP 711.03(c)(II)(C) and (D).

The requisite petition fee has been submitted. However, this petition does not comply with 37 CFR 1.137(b) since the petition lacks item (3).

An unsigned amendment (or other paper) or **one not properly signed** by a person having authority to prosecute the application is not entered. Therefore, the statement of unintentional delay in an improperly filed petition cannot be accepted.

Any request for reconsideration of this decision must be submitted within TWO (2) MONTHS from the mail date of this decision. Extensions of time under 37 CFR 1.136(a) are permitted. The reconsideration request should include a cover letter entitled "Renewed Petition under 37 CFR 1.137(b)." This is **not** a final agency action within the meaning of 5 U.S.C. § 704.

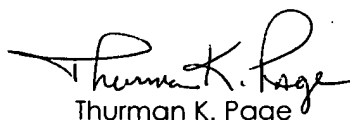
Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

The centralized facsimile number is **(571) 273-8300**.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.


Thurman K. Page
Petitions Examiner
Office of Petitions



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P.O. Box 1450
Alexandria, VA 22313-1450
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OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, L.L.P.
1940 DUKE STREET
ALEXANDRIA VA 22314

MAILED

DEC 22 2010

In re Application of
Kenichiro TERAMOTO, et al.
Application No. 11/431,717
Filed: May 11, 2006
Attorney Docket No. 291082US2

:
:
:
:
:

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the following submissions filed August 4, 2010: (a) the renewed petition to expunge client correspondences addressed to petitioner's client dated March 23, 2009 and April 7, 2009, which were inadvertently attached to a paper filing, that is being treated under the provisions of 37 CFR 1.59(b); and (b) the petition under 37 CFR 1.183 to waive the requirement in MPEP § 724.05 II(D) that the petitioner make a commitment to retain the client correspondences that are to be expunged, for the period of the patent that may issue from the instant application.

The petition fee of \$400 under 37 CFR 1.17(f), required for consideration of a petition under 37 CFR 1.183, has been charged to Deposit Account 15-0030, as authorized.

Granting of a petition to expunge information unintentionally submitted in an application is governed by the list of factors enumerated in MPEP § 724.05, paragraph II. Petitioner states that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR 1.17(g) has been paid. MPEP § 724.05, paragraph II(D) requires the petitioner to make a commitment to retain the client correspondences for the period of the patent that may issue from the instant application. Petitioner has requested its waiver under the provisions of 37 CFR 1.183 stating that "an extraordinary situation is present in this case" as the documents to be expunged "constitute attorney-client communications which was entitled to be protected by the attorney-client privilege."

In particular, 37 CFR 1.183 states that only in an extraordinary situation, when justice requires, any requirement of the regulations which is not a requirement of the statutes may be suspended

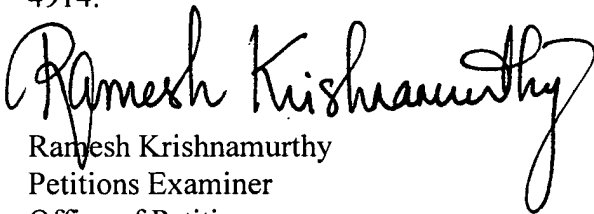
or waived by the Director or the Director's designee, *sua sponte*, or on petition of the interested party, subject to such other requirements as may be imposed. The petitioner's argument that "there can be no legitimate basis for any third party to obtain access to the Client Correspondence because they are protected by the attorney-client privilege" warrants a waiver of the above noted requirement of MPEP § 724.05(II)(D).

The request under 37 CFR 1.183 is **GRANTED**.

In view of the above, the petition to expunge client correspondences addressed to petitioner's client dated March 23, 2009 and April 7, 2009, has been **GRANTED**.

The documents requested to be removed have been expunged from the instant application. As of mailing date of this decision, the corresponding images of the expunged documents in IFW have been "closed" thereby removing them from a list of publicly available documents associated with this application.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4914.


Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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Alexandria, Virginia 22313-1450
www.uspto.gov

McDermott Will & Emery LLP
11682 El Camino Real, Suite 400
San Diego, CA 92130

Mail Date: 08/11/2010

Applicant	: Fang Shi	: DECISION ON REQUEST FOR
Patent Number	: 7660354	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/432,030	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/10/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **613** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



UNITED STATES PATENT AND TRADEMARK OFFICE

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WARE FRESSOLA VAN DER SLUYS & ADOLPHSON, LLP
BRADFORD GREEN, BUILDING 5
755 MAIN STREET, PO BOX 224
MONROE CT 06468

MAILED
JUN 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,683,988	:	
Issue Date: March 23, 2010	:	
Application No. 11/432,157	:	ON PETITION
Filed: May 10, 2006	:	
Attorney Docket No. 890-008.042	:	

This is a decision on the petition filed May 24, 2010, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3208. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and directing issuance of the requested Certificate of Correction.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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Paper No. 9

**KILPATRICK TOWNSEND & STOCKTON LLP
TWO EMBARCADERO CENTER
EIGHTH FLOOR
SAN FRANCISCO CA 94111-3834**

MAILED

FEB 09 2011

OFFICE OF PETITIONS

In re Application of :
Troy T. Pummill et al :
Application No. 11/432,280 : DECISION DISMISSING
Filed: May 10, 2006 : PETITION UNDER
Attorney Docket No. 010327- : 37 CFR 1.313(c)(2)
011410US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **DISMISSED AS MOOT**.

Unfortunately, the petition was not referred to the appropriate deciding official for decision until after the issuance of this application into a patent. However, petitioner's attention is directed to 37 CFR 1.313(d), which states:

A petition under this section will not be effective to withdraw the application from issue unless it is actually received and granted by the appropriate officials **before the date of issue**. (Emphasis added)

In this case, the petition was not received in the Office of Petitions for consideration until February 8, 2011, the date upon which the above-identified application issued as U.S. Patent No. 7,885,659. Since the case has now issued, the petition to withdraw from issue cannot be granted.

Petitioner is reminded that, applicants were cautioned to hand carry or fax petitions to withdraw from issue directly to the Office of Petitions. See MPEP § 1308.

The request for continued examination (RCE) filed concurrently with the petition is improper in view of the issuance of this application into a patent and will not be processed.

Accordingly, the \$405.00 filing fee and the \$130.00 petition fee submitted are unnecessary and will be refunded in due course.

The Information Disclosure Statement has been made of record in the file of the above-identified application without further consideration. See 37 CFR 1.97(i).

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3208.

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: 0526-1125

Patent Number: 7,665,589

Filing Date
(or 371(b) or (f) Date): 12-May-2006

Issue Date: 23-Feb-2010

First Named
Inventor: BLANCHARD, Robert

Title: TRANSMISSION BOX FOR WHEELED MACHINE

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature /Benoit Castel/

Date August 18, 2010

Name
(Print/Typed) Benoit Castel

Registration Number 35041

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 1.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.



*Total of 1 forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

**Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF *WYETH****
(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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YOUNG & THOMPSON
209 Madison Street
Suite 500
Alexandria, VA 22314

Mail Date: 09/10/2010

Applicant	: Robert Blanchard	: DECISION ON REQUEST FOR
Patent Number	: 7665589	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/432,338	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **568** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : January 23, 2012

TO SPE OF : ART UNIT 2627

SUBJECT : Request for Certificate of Correction for Appl. No.: 11432473 Patent No.: 7391698

CofC mailroom date: July 7,
2008

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note: _____

Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Mohammad Ghayour/

SPE

2627

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

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FOLEY AND LARDNER LLP
SUITE 500
3000 K STREET NW
WASHINGTON, DC 20007

MAILED

DEC 20 2010

OFFICE OF PETITIONS

In re Application of
Katsuyuki Ishiguro
Application No. 11/432,504
Filed: May 12, 2006
Attorney Docket No. 064272-0111

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed December 17, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on November 12, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3673 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ *The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.*



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Zilka-Kotab, PC
P.O. Box 721120
San Jose, CA 95172-1120

MAILED

APR 11 2011

OFFICE OF PETITIONS

In re Application of
Joel Robert Spurlock, et al.
Application No. 11/432,648
Filed: May 10, 2006
Attorney Docket No. NAI1P532/06.018.01

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 24, 2011.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Zilka-Kotab, PC has been revoked by the assignee of the patent application on March 7, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Patent Capital Group**
6119 McCommas Blvd
Dallas TX 75214

Doc code : PET.OP.AGE

Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)

Approved for use through 07/31/2012. OMB 0651- 0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)					
Application Information					
Application Number	11/432,679	Confirmation Number	8468	Filing Date	2006-05-11
Attorney Docket Number (optional)	SRYT-201A	Art Unit	3676	Examiner	Alison Pickard
First Named Inventor	Mark R. Wilkinson				
Title of Invention	Stuffing Box Bushing, Assembly and Method of Manufacture				
Attention: Office of Petitions An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV). APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE. A grantable petition requires one of the following items: (1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or (2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.					
Name of Inventor who is 65 years of age, or older					
Given Name	Middle Name	Family Name	Suffix		
Mark	R	Wilkinson			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the format of the signature. Select (1) or (2) :					
<input type="radio"/> (1) I am an inventor in this application and I am 65 years of age, or more.					
<input checked="" type="radio"/> (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.					
Signature	/Michael Wolfson/		Date (YYYY-MM-DD)	2011-02-17	
Name	Michael Wolfson		Registration Number	24750	

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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P.O. Box 1450
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In re Application of
Mark R. Wilkinson

Application No. 11432679

Filed: May 11, 2006

Attorney Docket No. SRYT-201A (117989.10201)

:
:

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)

:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 17-FEB-2011 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.



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Ronald W. Citkowski
Gifford, Krass, Groh, Sprinkle
Anderson & Citkowski, P.C.
P.O. BOX 7021
Troy, MI 48007-7021

MAILED
AUG 30 2010
OFFICE OF PETITIONS

Applicant: Patel
Appl. No.: 11/432,742
Filing Date: May 11, 2006
Title: STABILIZED STEROID COMPOSITION AND METHOD FOR ITS PREPARATION
Attorney Docket No.: Triax Pharmaceuticals, LL

The above identified application has been forwarded to the undersigned for review of the correspondence address and the Power of Attorney and 3.73(b) statement received on December 18, 2007 and Notice of Acceptance of Power of Attorney mailed by the Office on January 3, 2008.

The 3.73(b) statement received on December 18, 2007 is defective and the Notice of Acceptance of Power of attorney is hereby vacated.

The above identified application was filed on May 11, 2006, and included a Declaration and Power of Attorney, which designated the Power of Attorney to the practitioners associated with customer number 25006 and the correspondence address as Ronald W. Citkowski, Gifford, Krass, Groh, Sprinkle, Anderson & Citkowski, P.C.; P.O. BOX 7021; Troy; MI 48007-7021. The application papers did not include another designated correspondence address. The above identified application is a continuation-in-part of application no. 10/762,652, which claims priority to provisional application 60/442,114.

In accordance with Office procedure, the Office used the correspondence address and power of attorney that was contained on the combined Declaration and Power of Attorney that was filed with the patent application.

A review of the Office records indicates that assignment documents have been recorded against the application on multiple dates.

A Power of Attorney and Revocation of Power of Attorney were received by the Office in the above-identified application on December 18, 2007, which were signed by Mr. Pohl.

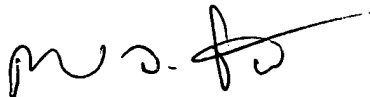
A Statement under 3.73(b) was received by the Office in the above identified application on December 18, 2007, which was signed by Mr. Pohl.

The 3.73(b) statement did not include the reels and frames showing a chain of title from the inventors to the current assignee for application 11/432742, as required by 3.73(b)(1)(ii). It is noted that application 11/432,742 is a continuation in part of application 10/762,652, thus assignments recorded against the '652 application would not carry over to the '472 application in accordance with Office policy. See MPEP 306.

The 3.73(b) statement included documentary evidence, which show transfer of rights from "Ferndale Laboratories, Inc." to "Triax Pharmaceuticals, LLC", however documentary evidence of a chain of title from the original owner to the assignee in accordance with 3.73(b)(1)(i) was not presented.

A new power of attorney and a 3.73(b) statement that includes the proper reel and frame numbers for the documents that show the chain of title from the inventors to the current assignee that are recorded for application 11/432,742 may be submitted to revoke the power of attorney and change the correspondence address.

Inquiries relating to this matter may be directed to Mark Polutta at (571) 272-7709.



Mark Polutta
Senior Legal Advisor
Office of Patent Legal Administration
Office of the Deputy Commissioner
for Patent Examination Policy

cc:
PHARMACEUTICAL PATENT ATTORNEYS, LLC
55 MADISON AVENUE
4TH FLOOR
MORRISTOWN NJ 07960-7397



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OSTROLENK FABER LLP
1180 AVENUE OF THE AMERICAS
NEW YORK, NY 10036-8403

MAILED
SEP 09 2011
OFFICE OF PETITIONS

In re Application of :
Henry John Louw :
Application No. 11/432,819 : DECISION ON PETITION
Filed: May 11, 2006 :
Attorney Docket No. P/2540-52 :

This is a decision on the petition, filed September 1, 2011, which is being treated as a petition under 37 CFR 1.8(b), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.


This application was held abandoned for failure to timely respond to the Office action of July 8, 2008, which set a three (3) month shortened statutory period for reply. One (1) month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, a reply was due on or before November 8, 2008, which was a Saturday.

Office record show a timely reply was received under 37 CFR 1.8 on November 10, 2008, the following Monday, which includes the amendment.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of July 8, 2008 is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 3765 for appropriate action in the normal course of business on the reply received on November 10, 2008.


Irvin Dingle
Petitions Examiner
Office of Petitions



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Boeing (TLG)
c/o Toler Law Group
8500 Bluffstone Cove
Suite A201
Austin TX 78759

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JUN 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Konya	:	
Application No. 11/432,837	:	DECISION ON PETITION
Filed: May 11, 2006	:	UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 1870-000186A	:	

This is a decision on the petition under 37 CFR § 1.78(a)(3), filed February 2, 2011 and supplemented March 25, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for benefit of priority to the prior-filed application set forth in the concurrently filed amendment.

The petition is **DISMISSED AS MOOT.**

The petition is accompanied by an amendment to the first sentence of the specification following the title to include a reference to the prior-filed application. While a reference to the prior-filed nonprovisional application was not included in an Application Data Sheet (ADS) or in the first sentence of the specification following the title as required by the rules, a reference, nevertheless, was made in the transmittal letter filed with the application.

Where a claim for priority under 37 CFR § 1.78(a)(3) is not included in the first sentence of the specification or in an ADS but does appear either in the oath or declaration or a transmittal letter filed with the application and the Office notes the claim for priority, no petition will be required to accept a late claim for priority. This is because the application would have been scheduled for publication on the basis of the information concerning the claim submitted elsewhere in the application within the time period set forth in 37 CFR § 1.78(a)(2)(ii). On the other hand, if the USPTO does not note the claim for priority to the prior-filed application set forth in the oath or declaration or transmittal letter submitted with the application, a petition will be required to accept a late claim for priority under 37 CFR § 1.78(a)(3).¹ In the present case, the Office noted the claim for priority to the prior-filed application in the transmittal letter filed with the application, as shown by its inclusion on the filing receipt.

¹ Note MPEP 201.11 (III)(D) and 66 Federal Register 67087 at 67089 (Dec. 28, 2001), effective December 28, 2001.

In view of the above, the \$1,410.00 petition fee submitted is unnecessary and will be refunded to petitioner's deposit account in due course.

Any questions concerning this decision on petition may be directed to the undersigned at (571) 272-3230. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred to Technology Center AU 2483 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed application. **Applicant should bear in mind that the amendment as drafted will most probably be objected to by the examiner because it contains an incorporation by reference statement.** An incorporation by reference statement added after an application's filing date is not effective because no new matter can be added to an application after its filing date (*see* 35 U.S.C. § 132(a)). If an incorporation by reference statement is included in an amendment to the specification to add a benefit claim under 35 U.S.C. § 120 after the filing date of the application, the amendment would not be proper. *Applicant should promptly submit an amendment claiming the benefit of priority under 35 U.S.C. § 120 to Application No. 10/251,570 without including an incorporation by reference statement.*



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 7/12/2011

TO SPE OF : ART UNIT 1631

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/432856 Patent No.: 7647182 B2

CofC mailroom date: 7/1/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

Note: _____

Virginia Tolbert

Certificates of Correction Branch

(571) 272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision in the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☒ **Denied**

State the reasons for denial below.

Comments: A new claim for priority under 35 USC 119(e) must be made during the pendency of the application and cannot be made by a Certificate of Correction, see MPEP 1481.03. A new claim for priority under 35 USC 119(e) can be made by filing a reissue application, see MPEP 1402

Myung A. Moran
SPE

1631
Art Unit



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PATENTS
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2 RESULTS WAY
CUPERTINO, CA 94402

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JAN 03 2011

OFFICE OF PETITIONS

In re Application of
Jansen et al.
Application No. 11/432,871
Filed: May 12, 2006
Attorney Docket No. DURE-342

:
:
:
:
:

ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.


The application became abandoned for failure to file a reply in a timely manner to the Restriction Requirement, mailed August 19, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were timely obtained. Accordingly, the application became abandoned on September 20, 2009. A Notice of Abandonment was mailed April 9, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election of the invention to be examined, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6059.

This matter is being referred to Technology Center 1616 for further examination on the merits.


Alicia Kelley
Petitions Examiner
Office of Petitions



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CROCKETT & CROCKETT, PC
26020 ACERO
SUITE 200
MISSION VIEJO, CA 92691

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FEB 28 2011

OFFICE OF PETITIONS

In re Application of
Alex Vayser
Application No. 11/432,898
Filed: May 12, 2006
Attorney Docket No. 028638-000510US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 20, 2011.

The request is **DISMISSED** as moot.

A review of the file record indicates that the power of attorney to Crocket & Crocket, PC has been revoked by the assignee of the patent application on January 31, 2011. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquires concerning this decision should be directed to undersigned at 571-272-1642.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



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**KRIEG DEVAULT LLP
ONE INDIANA SQUARE
SUITE 2800
INDIANAPOLIS IN 46204-2079**

MAILED

SEP 20 2011

OFFICE OF PETITIONS

In re Application of :
Przemyslaw Zagrodzki et al. :
Application No. 11/432,913 : **DECISION ON PETITION**
Filed: May 12, 2006 :
Attorney Docket No. RAYT-2 :

This is a decision on the Petition For Expungement of Assignment Under MPEP 323.01(d), filed August 4, 2011, which is being treated as a petition under 37 CFR 1.182 to expunge an assignment previously recorded against the above-identified application.

The petition is **granted**.

Petitioner indicates that sections of the Contributions and Purchase Agreement are proprietary but were inadvertently provided on an assignment document associated with the above-identified application. Petitioner requests that this original document containing the sensitive proprietary information be expunged. A copy of this assignment document that redacts the proprietary information without disturbing the remainder of the document's contents was recorded at reel 026819 frame 0307 to replace the original document.

While, as noted in MPEP 323, the USPTO will not normally remove a recorded document but instead records supplemental correcting documents, the sensitive nature of the proprietary information in question justifies the requested expungement. Since the normal corrective procedures outlined in MPEP § 323.01(a) through § 323.01(c) will not provide the petitioner with adequate relief and the integrity of the assignment records will not be affected by granting the petition due to the presence of the newly recorded redacted copy, the requested expungement is granted.

The fee for a petitioner filed under 37 CFR 1.182 has been charged to petitioner's deposit account as authorized.

The relief will be effected as follows:

- (1) the USPTO will remove any and all reference "pointers" in its relevant systems to the agreement recorded at reel 023409 frame 0414, such that the agreement cannot be located by referencing any of the applications or patents associated with the above-identified application against which the agreement was formerly recorded;
- (2) the copy of the assignment document that redacts the proprietary information, recorded at reel 026819 frame 0307, will be recognized as having a date of recordation of October 23, 2009, the date the original document was recorded; and
- (3) the petition and decision associated with this expungement will be maintained in confidence separate from any application or patent file to protect the sensitive information, including the reel/frame numbers of the original document.

Telephone inquiries concerning this communication should be directed to Carl Friedman at (571) 272-6842.



Carl Friedman
Petitions Examiner
Office of Petitions

Cc: Morgan, Lewis & Bockius LLP
1701 Market Street
Philadelphia, PA 19103



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DURECT CORPORATION
Legal Department
2 RESULTS WAY
CUPERTINO CA 95014

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OFFICE OF PETITIONS

In re Application of :
Rolf R. Jansen, et al. :
Application No. 11/432,918 : **DECISION ON PETITION**
Filed: May 12, 2008 :
Attorney Docket No. DURE-342 1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 2, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement, mailed November 12, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 13, 2009. The Notice of Abandonment was mailed July 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1616 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Michael B. Rubin**
1900 University Avenue
Suite 200
East Palo Alto, CA 94303



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**PAUL D. YASGER
ABBOTT LABORATORIES
100 ABBOTT PARK ROAD
DEPT. 377/AP6A
ABBOTT PARK IL 60064-6008**

MAILED

AUG 03 2010

OFFICE OF PETITIONS

In re Application of :
Vijaya J. Gracias, et al. :
Application No. 11/432,931 : **DECISION ON PETITION**
Filed: May 12, 2006 :
Attorney Docket No. 917USO1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed July 21, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to submit a new oath or declaration in a timely manner in reply to the Notice of Allowability, mailed August 10, 2009, which set a period for reply of three (3) months. Accordingly, this application became abandoned on November 11, 2009. The Notice of Abandonment was mailed July 20, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a new oath or declaration, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

37 CFR 1.137(b)(3) requires a statement that "the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional." Since the statement appearing in the petition varies from the language required by 37 CFR 1.137(b)(3), the statement is being construed as the required statement. Petitioner must notify the Office if this is not a correct reading of the statement appearing in the petition.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to the Office of Data Management for processing into a patent.

A handwritten signature in black ink, reading "Terri Johnson". The signature is written in a cursive, flowing style.

Terri Johnson
Petitions Examiner
Office of Petitions



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HARRINGTON & SMITH, ATTORNEYS AT LAW, LLC
4 RESEARCH DRIVE, SUITE 202
SHELTON, CT 06484

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MAR 04 2011

OFFICE OF PETITIONS

In re Application of	:	
Karri RANTA-AHO, et al.	:	
Application No. 11/432,980	:	DECISION ON PETITION
Filed: May 11, 2006	:	UNDER 37 CFR 1.181
Attorney Docket No. 897A.0006.U1(US)	:	

This is in response to the communication, filed August 11, 2010, to revive the above-identified application, which is being treated as a petition to withdraw the holding of abandonment.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." See 37 CFR 1.181(f).

This application became abandoned, by operation of law, on July 6, 2010 for failure to fully reply to the requirements set forth in the Notice of Allowability mailed on April 5, 2010. A Notice of Abandonment was mailed on July 29, 2010.

Petitioner asserts that the application is not in fact abandoned because the requisite response, i.e., the submission of the Issue Fee Transmittal Form, was filed on June 25, 2010. Petitioner states that "a general authorization to pay fees has been filed with the USPTO prior to the May 4, 2010 mailing of the notice of allowance." Petitioner believes that it is "clear that applicant actually intends to pay issue fee and had intended to do so at time applicant filed the Issue Fee Transmittal Form at the USPTO..."

The filed record discloses that on June 25, 2010, petitioner submitted a PTOL-85B. Petitioner checked the box indicating Issue fee should be charged to deposit account. Unfortunately, petitioner failed to provide the deposit account number. On May 11, 2006 petitioner filed a New Application Transmittal Form with a general authorization to charge any additional fees under 37 CFR 1.16 and 1.17. Unfortunately, petitioner did not indicated authorization to charge fees under 37 CFR 1.18.

In view of the above, the application was appropriately held abandoned.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

(1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).

(2) The petition fee as set forth in 37 CFR 1.17(m), **\$1620 for a large entity**;

(3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the \$1620 petition fee.


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to Monica A. Graves at (571) 272-7253.


Thurman K. Page
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); and Form PTO/SB/64, Privacy Act Statement



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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HARRINGTON & SMITH, ATTORNEYS AT LAW, LLC
4 RESEARCH DRIVE, SUITE 202
SHELTON, CT 06484

MAILED
MAY 18 2011
OFFICE OF PETITIONS

In re Application of	:	
Karri RANTA-AHO, et al.	:	
Application No. 11/432,980	:	DECISION ON PETITION
Filed: May 11, 2006	:	UNDER 37 CFR 1.137(b)
Attorney Docket No. 897A.0006.U1(US)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before July 5, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed April 5, 2010. Accordingly, the date of abandonment of this application is July 6, 2010.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.


The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300, (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

There is no indication that the petition is signed by a registered patent attorney of record. However, in accordance with 37 CFR 1.34, the signature of Mr. Walter J. Malinowski appearing on the correspondence shall constitute a representation to the

United States Patent and Trademark Office that he is authorized to represent the particular party in whose behalf he acts. If, Mr. Malinowski desires to receive correspondence regarding this file, the appropriate power of attorney documents must be submitted.

Telephone inquiries concerning this decision should be directed to Monica A. Graves at (571) 272-7253.

This application is being referred to Office of Data Management for processing into a patent.



Thurman K. Page
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
755 Page Mill Road
Palo Alto, CA 94304-1018

MAILED

NOV 08 2010

OFFICE OF PETITIONS

In re Application of :
D. Bruce Modesitt :
Application No. 11/432,982 :
Filed: May 12, 2006 :
Attorney Docket No. ARS-20003.00 :

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the renewed Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed October 14, 2010.

The request is **NOT APPROVED** because it is moot.

A review of the file record indicates that the power of attorney to Morrison & Foerster LLP has been revoked by the assignee of the patent application on October 14, 2010. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is moot.

All future communications from the Office will continue to be directed to the below-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Terri Johnson at 571-272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **VISTA IP LAW GROUP LLP**
12930 Saratoga Avenue
Suite D-2
Saratoga, CA 95070



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
www.uspto.gov

INTEL/BSTZ
BLAKELY SOKOLOFF TAYLOR & ZAFMAN LLP
1279 OAKMEAD PARKWAY
SUNNYVALE, CA 94085-4040

Mail Date: 08/05/2010

Applicant	: David J. Harriman	: DECISION ON REQUEST FOR
Patent Number	: 7660922	: RECALCULATION of PATENT
Issue Date	: 02/09/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/433,018	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **865** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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**RICOH/FENWICK
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041**

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of
M. Dirk Robinson
Application No. 11/433,041
Filed: May 12, 2006
Attorney Docket No. 20412-10958

:
:
: **DECISION ON PETITION**
:
:

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 9, 2010, to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely pay the issue and publication fees on or before September 15, 2010, as required by the Notice of Allowance and Fee(s) Due, mailed June 15, 2010. Accordingly, the date of abandonment of this application is September 16, 2010. A Notice of Abandonment was mailed on October 6, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510 and the publication fee of \$300, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay. Accordingly, the issue and publication fees are accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center for further processing of the reply received on November 9, 2010.

/Kimberly A. Inabinet/

Kimberly A. Inabinet
Petitions Examiner
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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VIDAS, ARRETT & STEINKRAUS, P.A.
Richard A. Arrett
SUITE 400, 6640 SHADY OAK ROAD
6640 Shady Oak Rd.
EDEN PRAIRIE MN 55344

MAILED
DEC 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,374,414	:	
Issue Date: May 20, 2008	:	
Application No.: 11/433,279	:	NOTICE
Filed: May 12, 2006	:	
Attorney Docket No.: H01.2B-13249-US01	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28(c), filed November 10, 2011.

On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. 1098 Off. Gaz. Pat. Office 502 (January 3, 1989). Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**. The change of status to a large entity has been entered and made of record.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

This file is being forwarded to the Files Repository.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Petitions Attorney
Office of Petitions



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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

MAILED

SEP 24 2010

OFFICE OF PETITIONS

In re Application of	:	
BESTLER, CAITLIN	:	
Application No. 11/433,287	:	ON APPLICATION FOR
Filed: 05/12/2006	:	PATENT TERM ADJUSTMENT
Attorney Docket No. 17101US01	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT DETERMINATION filed August 5, 2010, which is being treated as a petition under 37 CFR 1.705(b). Applicants submit that the correct patent term adjustment to be indicated on the patent is 698 days, not 441 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants seek this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined.

Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

¹ For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b)..

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within two months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3211.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



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LAW OFFICES OF MYOUNG K. LEE
4 HUTTON CENTRE DRIVE ,STE 720
SANTA ANA CA 92707

MAILED

OCT 20 2010

OFFICE OF PETITIONS

In re Application of

Cha

Application No. 11/433,597

Filed: May 12, 2006

Attorney Docket No. **P-1003**

DECISION ON PETITION

This is a decision on the petition under 37 CFR 1.181(a) to withdraw the holding of abandonment, filed April 21, 2009.

The petition under 37 CFR 1.181(a) to withdraw the holding of abandonment is **granted**.

This application was held abandoned on December 10, 2008, after it was believed that no response was received to the final Office action mailed September 16, 2008. The notice allowed a shortened statutory period for reply of three (3) months from its mailing date. Extensions of the time set for reply were available pursuant to 37 CFR 1.136(a). A Notice of Abandonment was mailed on April 2, 2009, indicating that a reply to the notice was not received.

A review of the application file record did reveal that response to the final Office action was filed on December 9, 2008, albeit in the wrong application. The amendment after final that petitioner filed on December 9, 2008, cited an incorrect application serial number on the first page. It cited application serial number 11/433,397. Thus, the response was scanned into that application. The response filed December 9, 2008, has since been moved to the subject application¹. It is apparent that petitioner timely filed the response, but placed cited an incorrect application serial number thereon. Based on the aforementioned, it appears that the application was improperly held abandoned as a response was received prior to expiration of the statutory period for reply, albeit in the wrong application. The holding of abandonment is withdrawn, accordingly.

The application file is being forwarded Technology Center 3600, GAU 3673, for further processing, including processing of the response filed December 9, 2008.

¹ It is noted that petitioner placed an incorrect application serial number on the instant petition. The petition was placed in the incorrect application and had to be moved into the subject application file. Petitioner is cautioned to use the correct application identifiers on the responses and papers filed in the application as the failure to do so can result in significant delays in the prosecution of the application and inconvenience and expense to petitioner.

Further inquiries regarding this decision may be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions



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Patent No. : 7,451,948 B2
Ser. No. : 11/433,675
Inventor(s) : Al-Qutub et al.
Issued : Nov. 18, 2008
Title : APPARATUS FOR DEICING A SURFACE OF AN AIRCRAFT
Docket No. : 3055D-0025
Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent, are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Issue Fee Transmittal Form PTOL-85B. Granting of a request under 37 CFR 3.81(b) is required to correct applicant's error providing *incorrect or erroneous* assignment data, *before* issuance of a Certificate of Correction, under 37 CFR 1.323 (*see Manual of Patent Examining Procedures (M.P.E.P) Chp.1400, sect. 1481*). This procedure is required *at any time after the issue fee is paid*, including after issuance of the patent.

In view of the foregoing, your request, in this matter, is hereby denied.

A request to correct the Assignee under 37 CFR 3.81(b) should include:

- A. the processing fee set forth in 37 CFR 1. 17(i) (currently \$130);
- B. a statement that the failure to include the correct assignee name on the PTOL-85B was inadvertent; and
- C. a copy of the Notice of Recordation of Assignment Document, reflecting the reel and frame number where the assignment(s) is recorded and/or reflecting proof of *the date* the assignment was submitted for recordation.

In the Request, Applicant(s) may request that the file be forwarded to Certificates of Correction Branch, for issuance of a Certificate of Correction, if the Request is granted.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail:

**Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450**

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (703) 872-9306
ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ennis Young
For Mary Diggs
Decisions & Certificates
of Correction Branch
(571) **272-3435** or (703) 756-1814



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COMMISSIONER FOR PATENTS
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MILLEN, WHITE, ZELANO & BRANIGAN, PC
2200 CLARENDON BLVD
SUITE 1400
ARLINGTON VA 22201

MAILED

SEP 08 2010

OFFICE OF PETITIONS

In re Patent No. 7,569,600	: DECISION ON APPLICATION FOR
Issued: August 4, 2009	: PATENT TERM ADJUSTMENT
Application No. 11/433,749	:
Filing or 371(c) Date: May 15, 2006	:
Dkt. No.: VIRO-24A	:

This is a decision on the petition filed on May 18, 2010 requesting reconsideration of the patent term adjustment decision mailed April 20, 2010.

The petition for reconsideration of the decision mailed April 20, 2010 is hereby **GRANTED TO THE EXTENT INDICATED HEREIN.**

The above-identified application matured into U.S. Patent No. 7,569,600 on August 4, 2009. The patent issued with a patent term adjustment of 261 days. A Request for PTA Recalculation in View of Wyeth was filed February 2, 2010 and dismissed April 20, 2010.

At the time of issuance, the patent was entitled to an adjustment of 292 days.

A review of the record reveals that the application is entitled to an adjustment of 292 days pursuant to 37 CFR 1.702(a)(1), from July 16, 2007 to May 2, 2008.

The patent is entitled to an adjustment of 81 days pursuant to 37 CFR 1.702(b), from May 16, 2009 to August 4, 2009.

The period of adjustment under 37 CFR 1.702(a) and (b) totaling of 373 days is properly reduced a total of 81 days for applicant delay pursuant to 37 CFR 1.704.

The adjustment is properly reduced 31 days pursuant to 37 CFR 1.704(b) in connection with the reply filed January 8, 2009. The reduction commenced December 9, 2008 and ended January 8, 2009.

The adjustment is properly reduced 50 days pursuant to 37 CFR 1.704(c)(8) in connection with the supplemental reply (IDS) filed February 27, 2009. The reduction commenced January 9, 2009 and ended February 27, 2009, the date that the supplemental reply (IDS) was filed.

Thus, at the time of issuance, the patent was entitled to the 292 (292 days under § 1.702(a) + 81 days under § 1.702(b) – 81 days under § 1.704)).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 292 days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Draft Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,569,600

DATED : August 4, 2009

DRAFT

INVENTOR(S) : Denis, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 261 days

Delete the phrase "by 261 days" and insert – by 292 days--



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ALEXANDRIA, VA 22313-1450
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OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Patent No. 7,709,517
Issued: May 4, 2010
Application No. 11/433,829
Filed: May 15, 2006
Dkt. No.: 58086-231261

: DECISION ON PATENT TERM
: ADJUSTMENT and NOTICE OF INTENT
: TO ISSUE CERTIFICATE OF
: CORRECTION
:

This is a decision on the "Petition for Evaluation for Patent Term Adjustment," filed June 3, 2010.

The petition is **GRANTED TO THE EXTENT INDICATED HEREIN.**

The above-identified application matured into U.S. Patent No. 7,709,517 on May 4, 2010. The patent issued with a patent term adjustment of 592 days. Patentees assert that the patent term adjustment is subject to a reduction of 30 days for applicant delay in connection with a supplemental amendment filed May 27, 2009.

As set forth herein, a review of the record reveals that the patent is entitled to an overall adjustment of 411 days.

In accordance with § 1.703(a)(1), the application is entitled to an adjustment of 477 days.

In accordance with § 1.703(b), the application is entitled to an adjustment of 155 days.

In accordance with § 1.704(c)(8), the adjustment is subject to a reduction of 30 days in connection with the information disclosure statement (IDS) filed May 27, 2009. The reduction commenced April 28, 2009, the day after the date that the initial reply was filed, and ended May 27, 2009, the date that the supplemental reply (IDS) was filed.

In accordance with § 1.704(c)(8), the adjustment is subject to a reduction of 31 days in connection with the IDS filed October 9, 2009. The reduction commenced September 9, 2009, the day after the date that the initial reply was filed, and ended October 9, 2009, the date that the supplemental reply was filed.

In accordance with § 1.704(c)(10)(ii), the adjustment is subject to a reduction of 120 days in connection with the IDS filed February 18, 2010. The reduction commenced February 18, 2010, the date that the post-allowance submission was filed, and ended 120 days later.

In view thereof, at the time of issuance, the patent was entitled to an overall adjustment of 411 days (477 days per § 1.703(a)(1) + 115 days per § 1.703(b) – 411 days for applicant delay per § 1.704).

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Receipt is acknowledged for the required \$200.00 fee set forth at § 1.18(e).

The application is being forwarded to the Certificates of Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **411** days.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,709,517

DATED : May 4, 2010

DRAFT

INVENTOR(S) : Sawyers, et al:

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 592 days

Delete the phrase "by 592 days" and insert – by 411 days--



UNITED STATES PATENT AND TRADEMARK OFFICE

COMMISSIONER FOR PATENTS
UNITED STATES PATENT AND TRADEMARK OFFICE
P.O. BOX 1450
ALEXANDRIA, VA 22313-1450
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MAILED

MAR 14 2011

OFFICE OF PETITIONS

VENABLE LLP
P.O. BOX 34385
WASHINGTON DC 20043-9998

In re Patent No. 7,709,517	: DECISION PATENT TERM
Issued: May 4, 2010	: ADJUSTMENT and
Application No. 11/433,829	: NOTICE OF INTENT TO ISSUE
Filed: May 15, 2006	: CERTIFICATE OF CORRECTION
Dkt. No.: 58086-231261	:

This is a decision on the response filed October 7, 2010 to the decision on patent term adjustment under to 37 CFR 1.705(d). This matter is deemed a timely filed petition for reconsideration of decision on petition within the meaning of 37 CFR 1.181(f).

The request for reconsideration of the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent indicated herein.**

The patent is entitled to an overall adjustment of 455 days.

The above-identified application issued as U.S. Pat. No. 7,709,517 on May 4, 2010. The patent issued with a patent term adjustment of 592 days. An application for patent term adjustment was timely filed June 3, 2010 and granted in part on September 7, 2010. Under reconsideration of the previous decision, patentees contest reduction of 120 days in connection with the post allowance submission filed February 18, 2010, or, alternatively, assert that the correction reduction is 76 days.

A review of the record reveals that the period of reduction in connection with the post allowance submission is 76 days, not 120 days. The reduction commenced February 18, 2010, the date that the post allowance submission was filed, and ended May 4, 2010, 76 days later, upon issuance of the patent. See, 37 CFR 1.704(c)(10)(ii). Despite patentees' argument to the contrary, the submission is deemed a failure to engage in reasonable efforts to conclude prosecution or processing within the meaning of 37 CFR 1.704 because the submission was not filed at the request of the examiner.

In view thereof, the patent is entitled to an overall adjustment of 455 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**,

whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136. See 37 CFR 1.323(a)(4).

No additional fee is due in connection with this matter.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by 455 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Attorney Advisor
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,709,517

DATED : May 4, 2010

DRAFT

INVENTOR(S) : Sawyers, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 592 days

Delete the phrase "by 592 days" and insert -- by 455 days --



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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King & Spalding LLP
P.O. Box 889
Belmont CA 94002-0889

MAILED

OCT 13 2011

OFFICE OF PETITIONS

In re Application of :
Stein et al. :
Application No. 11/433840 :
Filing or 371(c) Date: 05/11/2006 : **ON PETITION**
Pat. Num.: 7,507,196 :
Issue Date: 03/24/2009 :
Title of Invention: :
ANTISENSE ANTIVIRAL COMPOUNDS :
AND METHODS FOR TREATING A :
FILOVIRUS INFECTION :

This is a decision on the "Petition for Reconsideration of Employment Contract Recordation Under 37 CFR 1.181," filed August 17, 2011, requesting review of a decision refusing to record an employment contract.

This Petition is hereby **dismissed**.

Applicant files the present petition and avers that in a Notice of Non-Recordation of Document issued on July 20, 2011, this Office refused to record the Employment Contract of David Stein because it does not follow the 37 CFR 1.47 and 1.63 guidelines.

Applicants cite to the MPEP 313, which provides that where a document submitted for recordation has been returned unrecorded, and which the sender believes represents an unusual case which justifies recordation, directs petitioner to file a petition under 37 CFR 1.181 requesting recordation of the document.

Petitioner provides that in this instance recording of the Employment Contract of David Stein is in the public interest to give third parties notification of equitable interests or other matters relevant to the ownership of the present application.

Applicable Law, Rules and/or MPEP

37 CFR 3.11. Documents which will be recorded.

(a) Assignments of applications, patents, and registrations, accompanied by completed cover sheets as specified in §§ 3.28 and 3.31, will be recorded in the Office. Other documents, accompanied by completed cover sheets as specified in §§ 3.28 and 3.31, affecting title to

applications, patents, or registrations, will be recorded as provided in this part or at the discretion of the Director.

MPEP 301(V), MAKING THE ASSIGNMENT OF RECORD, states:

(A) An assignment can be made of record in the assignment records of the Office. Recordation of the assignment provides legal notice to the public of the assignment. It should be noted that recording of the assignment is merely a ministerial act; it is not an Office determination of the validity of the assignment document nor the effect of the assignment document on the ownership of the patent property. See 37 CFR 3.54 and MPEP § 317.03

The MPEP 317, Handling of Documents in the Assignment Division, states as follows:

All documents and cover sheets submitted for recording are examined for formal requirements in the Assignment Division in order to separate documents which are recordable from those which are not recordable.

Documents and cover sheets that are considered not to be recordable are returned to the sender by the Assignment Division with an explanation. If the sender disagrees or believes that the document represents an unusual case which justifies recordation, the sender may present the question to the Director by way of petition under 37 CFR 1.181, filed with the Office of Petitions.

37 CFR 3.28. Requests for recording, provides:

Each document submitted to the Office for recording must include a single cover sheet (as specified in § 3.31) referring either to those patent applications and patents, or to those trademark applications and registrations, against which the document is to be recorded. If a document to be recorded includes interests in, or transactions involving, both patents and trademarks, then separate patent and trademark cover sheets, each accompanied by a copy of the document to be recorded, must be submitted. If a document to be recorded is not accompanied by a completed cover sheet, the document and the incomplete cover sheet will be returned pursuant to § 3.51 for proper completion, in which case the document and a completed cover sheet should be resubmitted.

37 CFR 3.31, Cover sheet content, mandates as follows:

- (a) Each patent or trademark cover sheet required by § 3.28 must contain:
 - (1) The name of the party conveying the interest;
 - (2) The name and address of the party receiving the interest;
 - (3) A description of the interest conveyed or transaction to be recorded;
 - (4) Identification of the interests involved:
- (ii) For any other document affecting title to a trademark or patent application, registration or patent: Each trademark or patent application number or each trademark registration number or

patent against which the document is to be recorded, or an indication that the document is filed together with a patent application;

(5) The name and address of the party to whom correspondence concerning the request to record the document should be mailed;

(6) The date the document was executed;

(7) The signature of the party submitting the document. For an assignment document or name change filed electronically, the person who signs the cover sheet must either:

(i) Place a symbol comprised of letters, numbers, and /or punctuation marks between forward slash marks (e.g. /Thomas O 'Malley III /) in the signature block on the electronic submission; or

(ii) Sign the cover sheet using some other form of electronic signature specified by the Director.

Examples of the type of descriptions of the interest conveyed or transaction to be recorded that can be identified are:

(A) assignment;

(B) security agreement;

(C) merger;

(D) change of name;

(E) license;

(F) foreclosure;

(G) lien;

(H) contract; and

(I) joint research agreement.

Cover sheets required by 37 CFR 3.28 seeking to record a governmental interest must also (1) indicate that the document relates to a governmental interest and (2) indicate, if applicable, that the document to be recorded is not a document affecting title.

A patent cover sheet may not refer to trademark applications or registrations.

Form PTO-1595, Recordation Form Cover Sheet, may be used as the cover sheet for recording documents relating to patent(s) and/or patent application(s) in the Office.

Office records

A review of Office records and the application file reveals that no Notice of Non-Recordation of Document issued on July 20, 2011 is present in the file, nor has Applicant filed a copy thereof.

Analysis and conclusion

A review of the present petition reveals that Applicant has not filed a copy of the recordation cover sheet putatively filed with the Employment Agreement, nor has petitioner filed a copy of the Notice of Non-Recordation of Document issued on July 20, 2011.

The petition is therefore not grantable. Petitioner should file a request for reconsideration of the petition and include a copy of the documents that Applicant attempted to file, including any recordation cover sheet, and include a copy of the Notice of Non-Recordation of Document issued on July 20, 2011.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Director for Patents
PO Box 1450
Alexandria, VA 22313-1450

By FAX: (571) 273-8300
Attn: Office of Petitions

By hand: Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Telephone inquiries concerning this Decision should be directed to the undersigned at (571) 272-3232.

/DLW/

Derek L. Woods
Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 12/27/10

TO SPE OF : ART UNIT 1636

SUBJECT : Request for Certificate of Correction for Appl. No.: 11433859 Patent No.: 7745209

CofC mailroom date:

12/13/10

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

Ardin H. Marschel
ARDIN H. MARSCHEL

SUPERVISORY PATENT EXAMINER

AU 1636

7/19/11



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
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HARNESS, DICKEY & PIERCE, P.L.C.
P.O. BOX 828
BLOOMFIELD HILLS, MI 48303

MAILED
APR 03 2012
OFFICE OF PETITIONS

In re Application of Edwin Oakey :
Application No. 11/433,895 : Decision on Petition
Filing Date: May 12, 2006 :
Attorney Docket No. 1543-000003 :

This is a decision on the petition under 37 CFR 1.137(b) filed February 11, 2012, to revive the above-identified application.

The petition is **granted**.

The above-identified application became abandoned for failure to reply in a timely manner to the final Office action mailed March 26, 2010, which set a shortened statutory period for reply of three (3) months. An extension of time under the provisions of 37 CFR 1.136(a) was not obtained. Accordingly, the above-identified application became abandoned on Tuesday, June 29, 2010. A Notice of Abandonment was mailed November 3, 2010. The instant petition requests revival of the application.

A grantable petition under 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed,
- (2) The petition fee,
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, and
- (4) A terminal disclaimer and fee if the application was filed on or before June 8, 1995 or if the application is a design application.

The petition satisfies the requirements of 37 CFR 1.137(b) in so far as petitioner has supplied a reply in the form of a request for continued examination and an amendment, the required petition fee of \$1,860, and the required statement of unintentional delay. Therefore, the petition is granted and the application is revived.

Technology Center Art Unit 1743 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'Charles Brantley', written in a cursive style.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 8/15/11

Paper No.: _____

TO SPE OF : ART UNIT: 3711

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/433,911 Patent No. 7,766,329

CofC mailroom date 7/18/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square -- 9D10-A
Palm Location 7580

Ernest C. White, LIE

Certificates of Correction Branch
703-756-1814 _____

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ Approved

All changes apply.

☐ Approved in Part

Specify below which changes do not apply.

☐ Denied

State the reasons for denial below.

Comments: _____

Gene Kim

Digitally signed by Gene Kim
DN: cn=Gene Kim, o=USPTO, ou=AU 3711, email=genkim@uspto.gov
Date: 2011.08.22 09:01:34 -0500

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

INTEL CORPORATION
c/o CPA Global
P.O. BOX 52050
MINNEAPOLIS, MN 55402

Mail Date: 08/04/2010

Applicant	: Saul Lewites	: DECISION ON REQUEST FOR
Patent Number	: 7647509	: RECALCULATION of PATENT
Issue Date	: 01/12/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/433,944	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/12/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **656** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/433,989	05/15/2006	Anant Agarwal	01997-344001/11678	3197

26161	7590	08/11/2010
FISH & RICHARDSON PC		
P.O. BOX 1022		
MINNEAPOLIS, MN 55440-1022		

EXAMINER	
PARIHAR, SUCHIN	

ART UNIT	PAPER NUMBER
2825	

NOTIFICATION DATE	DELIVERY MODE
08/11/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

PATDOCTC@fr.com



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

FISH & RICHARDSON PC
P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

In re Application of Anant Agarwal et al. :
Appl. No.: 11/433,989 : DECISION ON PETITION
Filed: May 15, 2006 : UNDER 37 C.F.R. §1.59
Attorney Docket No.: 01997-344001/11678 :
For: DISTRIBUTING COMPUTATIONS IN A :
PARALLEL PROCESSING ENVIRONMENT :

This is a decision on the petition under 37 C.F.R. §1.59(b), filed July 22, 2010, to expunge the papers submitted on December 11, 2009 from in the above-identified application.

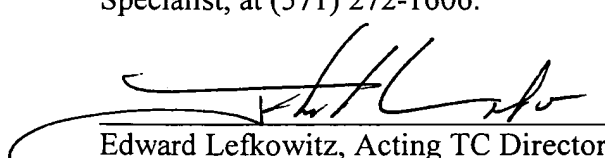
The petition is DENIED.

Petitioner asserts that the papers submitted December 11, 2009 including an Amendment/Request for Reconsideration After Non-Final Rejection, Claims and Applicant's Arguments/Remarks Made in an Amendment, were inadvertently filed with errors in some of the dependent claims and a" replacement response with the corrected claim listing is being provided as a submission along with the RCE that is being filed with this petition."

Expunging information unintentionally submitted in an application or in an incorrect application may be expunged pursuant to 37 CFR 1.59. A review of the prosecution record reveals that the papers of December 11, 2009 were filed in response to a non-final Office action. Accordingly, these papers were not inadvertently filed as asserted in the petition.

While the amendment to the claims may contain errors, these papers form parts of the prosecution history and will not be expunged from the application record.

Any inquiry regarding this decision should be directed to Hien H. Phan, Quality Assurance Specialist, at (571) 272-1606.


Edward Lefkowitz, Acting TC Director
Technology Center 2800
Semiconductors, Electrical and Optical
Systems and Components

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : 02/19/11

TO SPE OF : ART UNIT 2825

SUBJECT : Request for Certificate of Correction for Appl. No.: 11433989 Patent No.: 7840914

CofC mailroom date: 02/09/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-270-9990

Certificates of Correction Branch

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20111026

DATE : October 04, 2011

TO SPE OF : ART UNIT 2469

SUBJECT : Request for Certificate of Correction on Patent No.: 7,953,877

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - ST (South Tower) 9A22

Palm location **7590** - Tel. No. (703) 305-8309

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriated box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

NONE

/IAN N. MOORE/
Supervisory Patent Examiner, Art Unit 2469



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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NOVARTIS VACCINES AND DIAGNOSTICS INC.
INTELLECTUAL PROPERTY- X100B
P.O. BOX 8097
Emeryville CA 94662-8097

MAILED

SEP 20 2011

OFFICE OF PETITIONS

In re Patent No. 7,955,604	:	
Issue Date: June 7, 2011	:	
Application No. 11/434,127	:	DECISION ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. PP-016620.0024 002441.001	:	

This is a decision on the Request To Correct Assignee Under 37 C.F.R. § 3.81(b), filed July 26, 2011, to accept the omission of the second assignee's name. A completed Certificate of Correction Form was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner requests that the present petition was submitted to accept the omission of the second assignee's name on the previously submitted PTOL-85B and such error was inadvertent. Accordingly, petitioner requests that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second assignee's name to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in §3.11 before issuance of the patent, and must include a request for a certificate of correction under §1.323 of this chapter (accompanied by the fee set forth in §1.20(a) and the processing fee set forth in §1.17(i) of this chapter.

U.S. Patent No. 7,955,604
Application No. 11/434,127
Decision on Petition under 37 CFR §3.81(b)

Page 2

The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form (PTO/SB/44) submitted with the petition.

The file does not indicate a change of address has been submitted, although the address given on the petition differs from the address of record. If appropriate, a change of address should be filed in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,955,604.



Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions

cc: Banner & Witcoff, Ltd.
10 South Wacker Drive
Suite 3000
Chicago, IL 60606

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11434166 Patent No.: 7772177

CofC mailroom date: 5/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

PTOL-306 (REV. 7/03) 5/24/11 5:21 PM 0094

Note:

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

☐ **Approved in Part**

☐ **Denied**

All changes apply.

Specify below which changes **do not** apply.

State the reasons for denial below.

Charles T. King
SPG, Art Unit 1654

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 5/31/11

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction for Appl. No.: 11434166 Patent No.: 7772177

CofC mailroom date: 5/24/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Note:

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Clark T. [Signature]
COE Art Unit 1604

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20101005A

DATE : October 5, 2010

TO SPE OF : ART UNIT 1654

SUBJECT : Request for Certificate of Correction on Patent No.: 7572883 (11/434273)

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments:

SPE: /Cecilia Tsang/ **SPE**

Art Unit 1654



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STAAS & HALSEY LLP
SUITE 700
1201 NEW YORK AVENUE, N.W.
WASHINGTON, DC 20005

MAILED

SEP 16 2010

OFFICE OF PETITIONS

In re Application of	:	
Byung-Seok Soh et al	:	
Application No. 11/434,276	:	DECISION ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. 1907.1015	:	

This is a decision on the petition, filed July 26, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee), requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to timely respond to the Restriction Requirement of September 17, 2009, which set a one (1) month shortened statutory period for reply. No extensions of time under the provisions of 37 CFR 1.136(a) was obtained. A reply was due on or before October 17, 2009.

Petitioner states that a reply was in fact timely filed on October 19, 2009 (October 17, 2009 being a Saturday), which bears an incorrect application number; i.e. 11/4374,276 rather than 11/434,276. To support this assertion, petitioner has submitted a copy of a return postcard which acknowledges receipt by the U.S. Patent and Trademark Office (USPTO) on October 19, 2009. A copy of the previously submitted reply accompanies the petition.

The Restriction Requirement acknowledged as having been received in the USPTO on October 19, 2009 is not of record in the application file and has not to date been located. However, MPEP 503 states that "[a] post card receipt which itemizes and properly identifies the papers which are being filed serves as *prima facie* evidence of receipt in the USPTO of all the items listed thereon on the date stamped thereon by the USPTO." Accordingly, it is concluded that the Restriction Requirement was timely received in the USPTO.

In view of the above, the holding of abandonment is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3210.

This application is being referred to Technology Center AU 2629 for appropriate action in the normal course of business on the reply received with petition.

A handwritten signature in cursive script, appearing to read "Irvin Dingle".

Irvin Dingle
Petition Examiner
Office of Petitions

24 SEP 2010



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P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

BAYER MATERIAL SCIENCE LLC
100 BAYER ROAD
PITTSBURGH PA 15205

In re Application of :
Le-Khac et al. :
Application No. 11/434,286 : DECISION ON PETITION
Filed: May 15, 2006 :
Attorney Docket No.: PO-8013-US/MD-01-021-PU-U : UNDER 37 CFR 1.78(a)(3)
For: Ultraviolet-Curable Polyols And Polyurethane :
Compositions Made Therefrom :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on July 22, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth therein. The petition is **DISMISSED**, without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with requirement (1) because the required reference has not been provided. Petitioner has provided an amendment which states that "This application is a continuation of PCT/US04/38422, which is a Continuation-In-Part of U.S. application Serial No. 10/976,684, filed Oct. 29, 2004, now US Patent 7,041,708, which is a Continuation-in-Part of

U.S. application Serial No. 10/714,720, filed November 17, 2003, now abandoned." However, inspection of application PCT/US04/38422 reveals that it claims priority to 10/976,684, but it does not provide a specific cross-reference indicating that, e.g., the international application is a CIP of the earlier application. MPEP 201.11, Section III. C., states in relevant part,

Sometimes a pending application is one of a series of applications wherein the pending application is not copending with the first filed application but is copending with an intermediate application entitled to the benefit of the filing date of the first application. . . . Appropriate references must be made in each intermediate application in the chain of prior applications. If an applicant desires, for example, the following benefit claim: "this application is a continuation of Application No. C, filed ---, which is a continuation of Application No. B, filed ---, which claims the benefit of provisional Application No. A, filed ---," then Application No. C must have a reference to Application No. B and provisional Application No. A, and Application No. B must have a reference to provisional Application No. A. (Emphasis added.)

Accordingly, it would not be appropriate to accept the amendment filed on July 22, 2010 in satisfaction of requirement (1).

Regarding requirement (2), the \$1410.00 surcharge (fee code 1454) is being charged to Deposit Account 13-3848, as authorized in the petition. The previous Decision indicated that the surcharge was being charged at that time, but the charge did not actually occur.

With respect to requirement (3), the decision mailed on September 25, 2009 indicated that this requirement had been satisfied.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, international application number PCT/US04/28422 must be amended to include a proper reference to U.S. application number 10/976,684. Since such a reference was not included in application PCT/US04/28422 within the time period set forth in 37 CFR 1.78(a)(2)(ii), a petition under 37 CFR 1.78(a)(3) would be required in application PCT/US04/28422 in order to add the reference.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration



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100 BAYER ROAD
PITTSBURGH PA 15205

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SEP 28 2011

PCT LEGAL ADMINISTRATION

In re Application of :
Le-Khac et al. :
Application No. 11/434,286 : DECISION ON PETITION
Filed: May 15, 2006 :
Attorney Docket No.: PO-8013-US/MD-01-021-PU-U : UNDER 37 CFR 1.78(a)(3)
For: Ultraviolet-Curable Polyols And Polyurethane :
Compositions Made Therefrom :

This is a decision on the renewed petition under 37 CFR 1.78(a)(3) filed on October 7, 2010 to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional application set forth in the petition and amendment filed on July 22, 2010. The petition is **DISMISSED**, without prejudice.

The present nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional application is submitted after expiration of the period specified in 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The petition fails to comply with requirement (1) because the required reference has not been provided. Previously, petitioner has provided an amendment which states that "This application is a continuation of PCT/US04/38422, which is a Continuation-In-Part of U.S. application Serial No. 10/976,684, filed Oct. 29, 2004, now US Patent 7,041,708, which is a Continuation-in-Part

of U.S. application Serial No. 10/714,720, filed November 17, 2003, now abandoned.” However, inspection of application PCT/US04/38422 reveals that it claims priority to 10/976,684, but it does not provide a specific cross-reference indicating that, e.g., the international application is a CIP of the earlier application. Petitioner seeks to address that deficiency by submitting a “‘substituted’ page one of the originally filed International Application to include a proper reference to US 10/976,684 under 37 CFR 1.78(a)(3) in application PCT/US04/28422 [sic].”

Petitioner is advised that, in order for the required cross-reference to be inserted into international application PCT/US04/38422, a petition (and fee) under 37 CFR 1.182, seeking such insertion and filed in PCT/US04/38422, would be required. In the absence of such a petition, it would not be appropriate to accept the amendment filed on July 22, 2010 in satisfaction of requirement (1).

Regarding requirement (2), the \$1410.00 surcharge (fee code 1454) is being charged to Deposit Account 13-3848, as authorized in the petition. The previous Decision indicated that the surcharge was being charged at that time, but the charge did not actually occur.

With respect to requirement (3), the decision mailed on September 25, 2009 indicated that this requirement had been satisfied.

Accordingly, before the petition under 37 CFR § 1.78(a)(3) can be granted, international application number PCT/US04/38422 must be amended to include a proper reference to U.S. application number 10/976,684. Such amendment must be made by way of a petition under 37 CFR 1.182, directed toward said international application.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web selecting the document description "Petition for review and processing by the PCT Legal Office" or by mail addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

/George Dombroske/
George Dombroske
PCT Legal Examiner
Office of PCT Legal Administration
(571) 272-3283

/Bryan Lin/
Bryan Lin
PCT Legal Examiner
Office of PCT Legal Administration



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/434,337	05/15/2006	Kennon Kyle McKinney	AMCK1.0102CIP	5155

22858	7590	03/02/2011
CARSTENS & CAHOON, LLP		
13760 NOEL ROAD, SUITE 900		
DALLAS, TX 75240		

EXAMINER	
PUROL, DAVID M	

ART UNIT	PAPER NUMBER
3634	

MAIL DATE	DELIVERY MODE
03/02/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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MAR - 2 2011

Steven H Washam
CARSTENS & CAHOON, L.L.P.
P.O. Box 802334
DALLAS, TX 75380

In re Application of	:	
Kennon Kyle McKinney	:	DECISION ON PETITION
Application No. 11/434337	:	UNDER 37 CFR §1.181
Filed: May 15, 2006	:	
For: AWNING BEAD AND STAPLE SYSTEM	:	

This is a decision on applicant's petition under 37 CFR 1.181 filed October 07, 2010 to withdraw the new matter objection made in the Office action dated May 10, 2010 based on the amendments filed on April 26, 2010. In addition, applicant's petition requests that the amendments of April 26, 2010 be accepted such that they become part of the application.

The petition is **GRANTED** to the extent indicated below.

The record reflects that in the final Office action dated December 15, 2008, claim 19 was rejected under 35 U.S.C. 112, second paragraph holding that the language of "that is not visible from" and "is visible from" were indefinite. Applicant filed an amendment on April 15, 2009 amending claims 1 and 19 to change the wording to disclose structure, i.e., that 'the bead occupies at least a portion of the channel neck opening'. The examiner issued a non-final action on June 3, 2009 with a new rejection of claims 1, 3-6, 10, 19, and 21-25 under 35 U.S.C. 112, second paragraph stating that the bead was disclosed as sitting 'wholly within the channel beneath the channel neck opening' and thus the amendment was contradictory to the original disclosure. Applicant responded on August 10, 2009 cancelling claims 3 and 21, and arguing that the disclosure did provide support for the limitation and that it did not contradict the limitation that the bead did not extend above the channel opening. In an Office action mailed on November 24, 2009, the examiner again rejected claims 1, 4-6, 10, 19, and 22-25 under 35 U.S.C. 112, second paragraph, noting that the original disclosure did not provide support for the bead occupying a portion of the channel neck opening as now claimed. Applicant filed a response on April 26, 2010 amending drawings and claims 1 and 19, such that the bead is described as occupying 'at least a portion of the channel neck opening and does not protrude above the top surface of the retained fabric covering material panels'.

On May 15, 2006, originally-filed claim 1 explicitly recited 'said channel having an inner surface and a narrowed channel neck', so the channel necessarily includes the narrowed channel neck. Revised figures 8 and 9 showed that bead 802/bead core 804 fills the channel completely,

including the channel neck/opening, which was never disclosed as a separate part and is always referred to as part of the channel. As part of the amendment of April 26, 2010, applicant also submitted revised paragraphs [0051] and [0053] of the specification which identify the channel neck as 807 and clarify that 807 is considered a portion of the overall channel void space.

Original drawings:

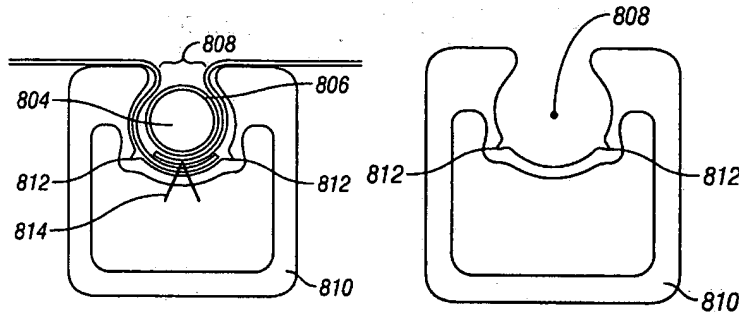


FIG. 9

FIG. 10

Drawings revised 4/26/2010:

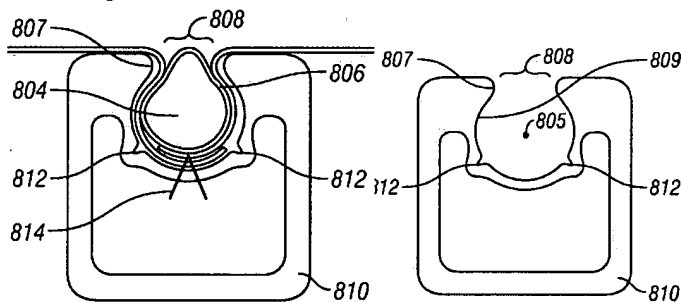


FIG. 9

FIG. 10

It is noted that the drawings are not described as to scale, and that applicant has consistently described the bead 802/bead core 804 as 'filling channel 808', and that originally unnumbered channel opening (now labeled 807) was always disclosed as part of the channel. Giving the word "fill" its usual and customary meaning:

fill

v. filled, fill-ing, fills

v.tr.

1.

a. To put into (a container, for example) as much as can be held: *fill a glass with milk.*

b. To supply or provide to the fullest extent: *filled the mall with new stores.*

c. To build up the level of (low-lying land) with material such as earth or gravel.

d. To stop or plug up (an opening, for example).

e. To repair a cavity of (a tooth).

f. To add a foreign substance to (cloth or wood, for example).

5.

a. To occupy the whole of; pervade: *Music filled the room.*

b. To spread throughout: *Fear filled the city.*

c. To engage or occupy completely; make full: *filled the child's mind with strange ideas; a story that filled our hearts with joy.*

The American Heritage® Dictionary of the English Language, Fourth Edition copyright ©2000 by Houghton Mifflin Company. Updated in 2009. downloaded from <http://www.thefreedictionary.com/fill+in> on Feb 8, 2010. Published by Houghton Mifflin Company. All rights reserved.

Applicant was clear that bead 802/bead core 804 'fills the remaining void space' of the channel 808, which necessarily includes the channel opening, as shown by the bracket labeled 808 in original figure 9 and revised figure 9.

Applicant's amendment of April 26, 2010 of paragraphs [0051] and [0053] (numbering based on PGPub's 2006/0219374 paragraph numbers, not application's paragraph numbers) further clarifies that the channel opening is indeed part of the channel:

As originally filed:

prior to bead 802 insertion. Finally, a flexible bead 802 is inserted into the channel 808 such that it fills the remaining void space of the channel 808 and does not protrude above the top surface of the fabric covering material 816.

Amended 4/26/2010:

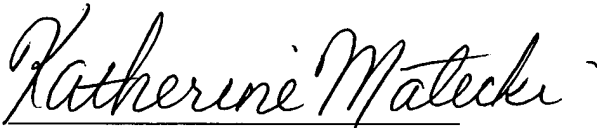
prior to bead 802 insertion. Finally, a flexible bead 802 is inserted into the channel 808 such that it fills the remaining void space of the channel 808 and does not protrude above the top surface of the fabric covering material 816. The channel neck 807 forms a portion of the overall channel void space and is narrower than the widest portion of the greater volume of the void space beneath the opening 808. This narrowed channel neck 807 allows for positive retention of the bead 802.

In the non-final office action mailed May 10, 2010, the examiner objected to the amendment to the specification of April 26, 2010 and the revised drawings of April 26, 2010 as containing new matter and rejected claims 1, 4-6, 10, 19 and 22-25 under 35 U.S.C. 112, first paragraph as failing to comply with the written description requirement, i.e., new matter.

MPEP 608.04(a) sets forth that matter not in the original specification, claims, or drawings is usually new matter. In the instant application, applicant clearly discloses that the bead must 'fill' the channel 808, and has consistently indicated that channel opening is part of channel 808. The plain meaning of 'fills the remaining void space' does provide original support for the amendment to the specification, claims, and drawings filed on April 26, 2009. Therefore, the objection on the amendment filed on April 26, 2010 for introducing new matters into the drawings and specification made in the May 10, 2010 non-final Office action are hereby **WITHDRAWN**. The April 26, 2010 amendment to the specification and corrected drawings has been entered into the application.

The application will be forwarded to the examiner for further action on the merits consistent with the decision herein.

Any question concerning this decision should be referred to Supervisory Patent Examiner Katherine W. Mitchell on (571) 272-7069.

A handwritten signature in cursive script that reads "Katherine Matecki". The signature is written in dark ink and is positioned above a horizontal line.

Katherine A. Matecki, Director
Patent Technology Center 3600
Telephone No.: (571) 272-5250

kwm/lm: 2/8/2010

LM



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DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON DC 20005-1209

MAILED

OCT 06 2010

OFFICE OF PETITIONS

In re Patent No. 7,747,327	: DECISION GRANTING PETITION
Issue Date: June 29, 2010	: UNDER 37 CFR 1.78(a)(3) AND
Application No. 11/434,436	: REQUEST FOR CERTIFICATE OF
Filed: May 12, 2006	: CORRECTION
Attorney Docket No. 200415-0001-03	:
(407610)	:

This is a decision on the petition, filed June 8, 2009, which is being treated as a petition under 37 CFR 1.78(a)(3), seeking to add a claim for priority under 35 U.S.C. § 120. The petition was supplemented on September 23, 2010 and on September 29, 2010.

The petition is granted.

A review of the file record fails to disclose that a claim for the benefit of priority to the above-noted, prior-filed nonprovisional application was made within the time period set forth in 37 CFR 1.78(a)(2)(ii) and further failed to include a proper reference to the prior-filed application as required by 37 CFR 1.78(a)(2)(i) and 1.78(a)(2)(iii).

The instant application was filed May 12, 2006. Therefore, since this application was filed after November 29, 2000, a petition under 37 CFR 1.78(a)(3), along with submission of a Certificate of Correction, is the appropriate avenue of relief to accept a late claim for the benefit of priority to a prior-filed nonprovisional application after issuance of the application into a patent. *See* MPEP 1481.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

As the petition for acceptance of an unintentionally delayed claim for the benefit of priority under 35 U.S.C. § 120 to the above-noted, prior-filed nonprovisional application satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

A corrected Filing Receipt, which includes the priority claim to the above-noted, prior-filed nonprovisional application, accompanies this decision on petition.

It is noted that the desired priority claim to the nonprovisional Application No. 09/902,287 and the PCT application number PCT/IE00/00004 has been recognized on the patent (7,747,327) that has issued from the instant application. However, the claim of priority to the foreign application ((IE) S990016 January 11, 1999) was not recognized in the issued patent. In view thereof the request for certificate of correction is granted.

Any inquiries concerning this decision may be directed to the undersigned at (571) 272-3208.

This application is being referred to the Certificates of Correction Branch for processing the request for a certificate of correction in accordance with this decision on the petition under 37 CFR 1.78(a)(3).

/KOC/
Karen Creasy
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/434,436	05/12/2006	3766	1112	200415-0001-03 (407610)	20	1

CONFIRMATION NO. 3949

REPLACEMENT FILING RECEIPT



OC000000043755691

55694
DRINKER BIDDLE & REATH (DC)
1500 K STREET, N.W.
SUITE 1100
WASHINGTON, DC 20005-1209

Date Mailed: 09/29/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Michael Conor Minogue, Kinvara, IRELAND;
Michael Louis Crowe, Dublin, IRELAND;

Power of Attorney: The patent practitioners associated with Customer Number 055694

Domestic Priority data as claimed by applicant

This application is a DIV of 09/902,287 07/10/2001 PAT 7,069,089
which is a CON of PCT/IE00/00004 01/11/2000

Foreign Applications

IRELAND S990016 01/11/1999

If Required, Foreign Filing License Granted: 06/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/434,436**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

ELECTROTHERAPY DEVICE AND METHOD

Preliminary Class

607

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

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NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 10/6/10

Paper No.: _____

TO SPE OF : ART UNIT 3766

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/434436 Patent No.: 7747327 B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the COCIN document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code COCX.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert

Certificates of Correction Branch

571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

Luther Behinger

Carl H. Fayer

10/20/10



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MEREDITH & KEYHANI, PLLC
330 MADISON AVE.
6TH FLOOR
NEW YORK NY 10017

MAILED

MAR 24 2011

OFFICE OF PETITIONS

In re Application of
Mukesh Sehgal
Application No. 11/434,469
Filed: May 15, 2006
Attorney Docket No. 414-001

DECISION ON PETITION
TO WITHDRAW FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 14, 2011.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

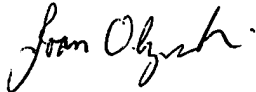
The request was signed by Fariba Sirjani on behalf of himself. Accordingly, Fariba Sirjani associated with the above-identified application has been withdrawn as attorney of record in the above-identified application.

The correspondence address of record remains unchanged.

Additionally, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is an outstanding Office action mailed March 22, 2011 that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.



Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Fariba Sirjani
925 Delaware Avenue, Apt 9C
Buffalo, NY 14209



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AT & T Legal Department - WS
Attn: Patent Docketing
Room 2A-207
One AT & T Way
Bedminster NJ 07921

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DEC 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,831,025
Issue Date: November 9, 2010
Application No. 11/434,473
Filed: May 15, 2006
Attorney Docket No. 2005-0567

DECISION ON PETITION

This is a decision on the Request For Assignee Name And Residence Data To Be Printed On Patent, filed October 5, 2010, which is being treated as a Petition Under 37 CFR 3.81(b) to add --AT&T Intellectual Property II, L.P.-- to the Title Page of the Patent via a Certificate of Correction.

The petition under 37 CFR §3.81(b) is **DISMISSED**.

Petitioner requests that the present Petition was submitted to add --AT&T Intellectual Property II, L.P.-- on the previously submitted PTOL-85B.

37 CFR 3.81(b), effective June 25, 2004, reads:


After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

U.S. Patent No. 7,831,025
Application No. 11/434,473
Decision on Petition under 37 CFR 3.81

Page 2

The Petition Under 37 CFR §3.81(b) was not accompanied by a Certificate of Correction Form (PTO/SB/44) as required by §3.81(b). *See also* MPEP 1481.01. Also, the petition requires a certificate of correction fee of \$100.00 (Fee Code 1811), as set forth under 37 CFR 1.20(a), and a petition processing fee of \$130.00 (Fee Code 1464), as set forth under 37 CFR 1.17(i). Since petitioner has failed to comply with the provisions of 37 CFR §3.81(b) and lacks both fees, the petition is dismissed.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.


Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions



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In re Application of
Brent Dorval

Application No. 11434511

Filed: May 16, 2006

Attorney Docket No. 11415-002

:
:

:DECISION ON PETITION TO MAKE SPECIAL
:UNDER 37 CFR 1.102(c)(1)
:

This is a decision on the electronic petition under 37 CFR 1.102 (c)(1), filed 01-FEB-2012 to make the above-identified application special based on applicant's age as set forth in MPEP § 708.02, Section IV.

The petition is **GRANTED**.

A grantable petition to make an application special under 37 CFR 1.102(c)(1), MPEP § 708.02, Section IV: Applicant's Age must include a statement by applicant or a registered practitioner having evidence that applicant is at least 65 years of age. No fee is required.

Accordingly, the above-identified application has been accorded "special" status and will be taken up for action by the examiner upon the completion of all pre-examination processing.

Telephone inquiries concerning this electronic decision should be directed to the Electronic Business Center at 866-217-9197.

All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Doc code : PET.OP.AGE

Description : Petition to make special based on Age/Health

PTO/SB/130 (07-09)

Approved for use through 07/31/2012. OMB 0651- 0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number

PETITION TO MAKE SPECIAL BASED ON AGE FOR ADVANCEMENT OF EXAMINATION UNDER 37 CFR 1.102(c)(1)					
Application Information					
Application Number	11434511	Confirmation Number	2351	Filing Date	2006-05-16
Attorney Docket Number (optional)	11415-002	Art Unit	1641	Examiner	Foster, Christine
First Named Inventor	Dorval, Brent				
Title of Invention	Detection of Antigen Specific Immunocomplexes				
Attention: Office of Petitions An application may be made special for advancement of examination upon filing of a petition showing that the applicant is 65 years of age, or more. No fee is required with such a petition. See 37 CFR 1.102(c)(1) and MPEP 708.02 (IV). APPLICANT HEREBY PETITIONS TO MAKE SPECIAL FOR ADVANCEMENT OF EXAMINATION IN THIS APPLICATION UNDER 37 CFR 1.102(c)(1) and MPEP 708.02 (IV) ON THE BASIS OF THE APPLICANT'S AGE. A grantable petition requires one of the following items: (1) Statement by one named inventor in the application that he/she is 65 years of age, or more; or (2) Certification by a registered attorney/agent having evidence such as a birth certificate, passport, driver's license, etc. showing one named inventor in the application is 65 years of age, or more.					
Name of Inventor who is 65 years of age, or older					
Given Name	Middle Name	Family Name	Suffix		
Daniel	C	Dantini			
A signature of the applicant or representative is required in accordance with 37 CFR 1.33 and 10.18. Please see 37 CFR 1.4(d) for the format of the signature. Select (1) or (2) :					
<input type="radio"/> (1) I am an inventor in this application and I am 65 years of age, or more.					
<input checked="" type="radio"/> (2) I am an attorney or agent registered to practice before the Patent and Trademark Office, and I certify that I am in possession of evidence, and will retain such in the application file record, showing that the inventor listed above is 65 years of age, or more.					
Signature	/Timothy H. Van Dyke/		Date (YYYY-MM-DD)	2012-01-24	
Name	Timothy H. Van Dyke		Registration Number	43218	

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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OFFICE OF PETITIONS

FISH & RICHARDSON P.C.
PO BOX 1022
MINNEAPOLIS MN 55440-1022

In re Patent No. 7,870,556
Issued: January 11, 2011
Application No. 11/434,623
Filed: May 16, 2006
Attorney Docket No. 07470-0095001

:
: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d) filed on March 9, 2011, requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted from 160 to 291 days.

The petition to correct the patent term adjustment is **DISMISSED**.

BACKGROUND

On January 11, 2011, the above-identified application matured into U.S. Patent No. 7,870,556, with a revised patent term adjustment of 160 days. On March 9, 2011, patentee timely submitted this request for reconsideration of patent term adjustment (with required fee), asserting that the correct number of days of Patent Term Adjustment is 291. Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on December 21, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 131 day period from September 3, 2010 (the mailing date of the Notice of Allowance) until January 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 131 days and be increased from 0 to 131 days. Patentee concludes that the correct patent term adjustment is 291 days (the sum of 310 days of "A delay" and 131 days of "B delay" minus 150 days of Applicant delay).

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Patentee's arguments have been considered, but not found persuasive. The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C.

111(a) on May 16, 2006 and the patent not having issued as of the day after the three year date, May 16, 2009, and a request for continued examination under 132(b) having been filed on April 23, 2009. In other words, the 131-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C. 132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)¹. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is

¹ Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

- (1) Payment of the issue fee, unless a petition under § 1.313 is granted;
- (2) Abandonment of the application; or
- (3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept. 18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the

applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include “any time consumed by” or “any delay in processing,” as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for “A delay” (e.g., extended for 1 day after the day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including “any time consumed by” means not including any days used to prosecute the application as specified in clauses (i)-(ii)². Clause (i) specifies “any time consumed by continued examination of the application requested by the applicant under section 132(b).” Clause (ii) specifies “any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court.” “Time” in the context of this legislation throughout refers to days. “Consumed by” means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The “any” signifies that the days consumed by are “any” of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, “any time consumed by” refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for “B

² Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henver, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not

entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures³ permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years

³ Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

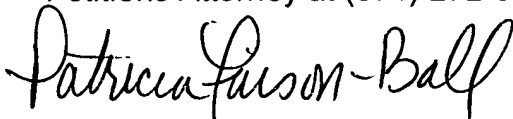
In this instance, a request for continued examination was filed on April 23, 2009, and the patent issued by virtue of that request on January 11, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 23, 2009 and ending on January 11, 2011 is not included in calculating Office delay.

CONCLUSION

In view thereof, it is concluded that the patent term adjustment of 160 days indicated on the patent is correct.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Telephone inquiries specific to this decision should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions



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MINNEAPOLIS MN 55440-1022

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In re Patent No. 7,870,556
Issued: January 11, 2011
Application No. 11/434,623
Filed: May 16, 2006
Attorney Docket No. 07470-0095001

:
: DECISION ON REQUEST
: FOR RECONSIDERATION
: OF PATENT TERM ADJUSTMENT

This is a decision on the request for reconsideration filed September 12, 2011, pursuant to 37 CFR §1.705(d), requesting that the patent term adjustment indicated on the above-identified patent be corrected from from 160 to 291 days.

This petition is hereby **DENIED**. This decision is a final agency action within the meaning of 5 U.S.C. § 704 for purposes of seeking judicial review. See, MPEP 1002.02.

The patent term adjustment indicated in the previous decision mailed July 11, 2011 is properly indicated.

Patentee maintains that the Office incorrectly calculated Office delay pursuant to 37 CFR 1.702(b). Patentee contends that the Office erred in subtracting from the "B delay" a period of time that was not "consumed by continued examination of the application." Specifically, Patentee argues that (after the filing of the request for continued examination) the Office mailed a Notice of Allowance on September 3, 2010, thereby closing examination of the application on that date. Thus, Patentee argues no continued examination took place during the 131 day period from September 3, 2010 (the mailing date of the Notice of Allowance) until January 11, 2011 (the date the patent was issued). As such, Patentee maintains that the "B delay" should include the 131 days and be increased from 160 to 291 days.

RELEVANT STATUTE AND REGULATIONS

The statutory basis for calculation of "B delay" is 35 U.S.C. 154(b)(1)(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including —

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

(ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or

(iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued.

The implementing regulation, 37 CFR 1.702(b) provides that:

Subject to the provisions of 35 U.S.C. 154(b) and this subpart, the term of an original patent shall be adjusted if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application, but not including:

(1) Any time consumed by continued examination of the application under 35 U.S.C. 132(b);

(2) Any time consumed by an interference proceeding under 35 U.S.C. 135(a);

(3) Any time consumed by the imposition of a secrecy order under 35 U.S.C. 181;

(4) Any time consumed by review by the Board of Patent Appeals and Interferences or a Federal court; or

(5) Any delay in the processing of the application by the Office that was requested by the applicant.

OPINION

Applicant's arguments have been considered.

The Office calculated the period of "B delay" pursuant to 35 U.S.C. 154(b)(1)(B)(i) and 37 CFR 1.702(b)(1) as 0 days based on the application having been filed under 35 U.S.C. 111(a) on May 16, 2006 and the patent not having issued as of the day after the three year date, May 16, 2009, and a request for continued examination under 132(b) having been filed on April 23, 2009. In other words, the 131-day period beginning on the date of mailing of the notice of allowance to the date of issuance of the patent was considered time consumed by continued examination of an application under 35 U.S.C.

132(b) and was not included in the "B delay."

The Office's calculation of "B delay" is correct. The "B delay" is an adjustment entered if the issuance of the patent was delayed due to the failure of the Office to issue a patent within three years after the date on which the application was filed. However, the adjustment does not include, among other things, any time consumed by continued examination of the application at the request of the applicant under 35 U.S.C. 132(b)¹. So, with respect to calculating the "B delay" where applicant has filed a request for continued examination, the period of adjustment is the number of days, if any, in the period beginning on the day after the date that is three years after the date on which the application was filed under 35 U.S.C. 111(a) or the national stage commenced under 35 U.S.C. 371(b) or (f) in an international application and ending on the date a patent was issued, but not including the number of days in the period beginning on the date on which a request for continued examination of the application under 35 U.S.C. 132(b) was filed and ending on the date the patent was issued.

Further, counting the period of time excluded from the "B delay" for the filing of a request for continued examination under 35 U.S.C. 132(b), from the date on which the request for continued examination is filed to the date the patent is issued is proper. Patentee does not dispute that time consumed by continued examination of an application under 35 U.S.C. 132(b) is properly excluded and that the calculation of the excluded period begins on the date of filing of the request for continued examination. At issue is what further processing or examination beyond the date of filing of the request for continued examination is not any time consumed by continued examination of the application under 35 U.S.C. 132(b). The USPTO indicated in September of 2000 in the final rule to implement the patent term adjustment provisions of the AIPA that once a request for continued examination under 35 U.S.C. 132(b) and 37 CFR 1.114 is filed in an application, any further processing or examination of the application, including granting of a patent, is by virtue of the continued examination given to the application under 35 U.S.C. 132(b) and CFR 1.114. See Changes to Implement Patent Term Adjustment under Twenty-Year Patent Term, 65 Fed. Reg. 56366, 56376 (Sept.

¹ Pursuant to 35 U.S.C. 132(b), 37 CFR 1.114 provides for continued examination of an application, as follows:

(a) If prosecution in an application is closed, an applicant may request continued examination of the application by filing a submission and the fee set forth in § 1.17(e) prior to the earliest of:

(1) Payment of the issue fee, unless a petition under § 1.313 is granted;
(2) Abandonment of the application; or
(3) The filing of a notice of appeal to the U.S. Court of Appeals for the Federal Circuit under 35 U.S.C. 141, or the commencement of a civil action under 35 U.S.C. 145 or 146, unless the appeal or civil action is terminated.

(b) Prosecution in an application is closed as used in this section means that the application is under appeal, or that the last Office action is a final action (§ 1.113), a notice of allowance (§ 1.311), or an action that otherwise closes prosecution in the application.

18, 2000) (response to comment 8). Thus, the excluded period begins with the filing of the request for continued examination and ends with the issuance of the patent.

Patentee's argument that the period of time after the issuance of a notice of allowance on a request for continued examination is not "any time consumed by continued examination requested by the applicant under section 132(b)" within the meaning of 35 U.S.C. 154(b)(1)(B)(i) is not availing. This limitation is not supported by the statutory language. Garcia v. United States, 469 U.S. 70, 75 (1984) ("only the most extraordinary showing of contrary intentions from [legislative history] would justify a limitation on the 'plain meaning' of the statutory language"). BP Am. Prod. Co. v. Burton, 549 U.S. 84, 91 (2006) ("Unless otherwise defined, statutory terms are generally interpreted in accordance with their ordinary meaning"). The statute provides for a guarantee of no more than 3-year application pendency, by providing for an adjustment in the patent term:

First, "Subject to the limitations of paragraph (2)," means that the limitations of paragraph 2 apply to this paragraph's adjustment of patent term. That is, the day-to-day extension of patent term for pendency beyond the 3 year period is restricted as follows: 1) "B delay" cannot accrue for days of "A delay" that overlap, 2) the patent term cannot be extended beyond disclaimed term, and 3) the period of adjustment, including accrued "B delay," will be reduced for applicant delay.

Second, "if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States," meaning that the condition must first occur that the issuance of an original patent (35 U.S.C. 153), not merely the issuance of a notice of allowance, is delayed due to the Office's failure to issue a patent (sign and record a patent grant in the name of the United States), not merely mail a notice of allowance, within 3 years after the actual filing date of the application in the United States. This provision gives the Office a three-year period to issue a patent (sign and record a patent grant in the name of the United States) after the application filing date before an adjustment will accrue for "B delay."

Third, "not including- (i) any time consumed by continued examination of the application requested by the applicant under section 132(b); (ii) any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court; or (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), meaning that the three-year period does not include "any time consumed by" or "any delay in processing," as specified in clauses (i)-(iii). This language correlates to 35 U.S.C. 154(b)(1)(A) which likewise provides the basis for determining the period given the Office to take the specified actions before an adjustment will accrue for "A delay" (e.g., extended for 1 day after the

day after the period specified in clauses (i)-(iv)).

Furthermore, these clauses are interpreted using their ordinary meanings. Nonetheless, the context of the legislation should be considered. As stated in Wyeth v. Dudas, 580 F.Supp.2d 138, 88 U.S.P.Q.2d 1538 (D.D.C., September 30, 2008), because the clock for calculating the 20-year patent term begins to run on the filing date, and not on the day the patent is actually granted, some of the effective term of a patent is consumed by the time it takes to prosecute the application. To mitigate this effect, the statute, *inter alia*, grants adjustments of patent term whenever the patent prosecution takes more than three years, regardless of the reason. The time consumed by prosecution of the application includes every day the application is pending before the Office from the actual filing date of the application in the United States until the date of issuance of the patent. The time it takes to prosecute the application ends not with the mailing of the notice of allowance, but with the issuance of the patent.

Thus, not including "any time consumed by" means not including any days used to prosecute the application as specified in clauses (i)-(ii)². Clause (i) specifies "any time consumed by continued examination of the application requested by the applicant under section 132(b)." Clause (ii) specifies "any time consumed by a proceeding under section 135(a), any time consumed by the imposition of an order under section 181, or any time consumed by appellate review by the Board of Patent Appeals and Interferences or by a Federal court." "Time" in the context of this legislation throughout refers to days. "Consumed by" means used by or used in the course of. *Websters Collegiate Dictionary*, (11th ed.). The "any" signifies that the days consumed by are "any" of the days in the pendency of the application, and not just days that occur after the application has been pending for 3 years. As such, "any time consumed by" refers to any days used in the course of 1) continued examination of the application under section 132(b)(the filing of a request for continued examination), 2) interference proceedings, 3) secrecy orders, and 4) appellate review. Thus, that 3-year period given to the Office to issue a patent before an adjustment will accrue for "B delay" does not include any days used in the course of or any time consumed by clauses (i)-(ii), including any time consumed by the filing of a request for continued examination.

² Clause (iii) provides for not including (iii) any delay in the processing of the application by the United States Patent and Trademark Office requested by the applicant except as permitted by paragraph (3)(C), the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued. It is noted that paragraph (3)(C) allows with an adequate showing by applicant for reinstatement of no more than 3 months of the patent term reduced for applicant delay in taking in excess of three months to respond.

Fourth, "the term of the patent shall be extended 1 day for each day after the end of that 3-year period until the patent is issued" meaning that the consequence of this failure is that after "the end of that 3-year period" an additional 1 day of patent term will accrue for each day that the application is pending until the day the patent is issued.

The "time consumed by" or used in the course of the continued examination of the application requested by the applicant under section 132(b) does not end until issuance of the patent. 35 U.S.C. 132(b) was enacted under the same title, the "American Inventors Protection Act of 1999," as 35 U.S.C. 154(b). Section 4403 of the AIPA amended 35 U.S.C. § 132 to provide, at the request of the applicant, for continued examination of an application for a fee (request for continued examination or RCE practice), without requiring the applicant to file a continuing application under 37 CFR 1.53(b) or a continued prosecution application (CPA) under 37 CFR 1.53(d). Thus, clause (i) is different from clause (ii) in that clause (i) refers to an examination process whereas clause (ii) refers to time consumed by proceedings (interferences, secrecy orders and appeals) in an application.

By nature, the time used in the course of the examination process continues to issuance of the patent. The examination process involves examining the application to ascertain whether it appears that the applicant is entitled to a patent under the law. See 35 U.S.C. 131 ("[t]he Director shall cause an examination to be made of the application and the alleged new invention; and if on such examination it appears that the applicant is entitled to a patent under the law, the Director shall issue a patent therefor"). If on examination it appears that the applicant is entitled to a patent, the USPTO issues a notice of allowance. See 35 U.S.C. 151 ("[i]f it appears that applicant is entitled to a patent under the law, a written notice of allowance of the application shall be given or mailed to the applicant"). If on examination it appears that the applicant is not entitled to a patent, the USPTO issues a notice (an Office action) stating the applicable rejection, objection, or other requirement, with the reasons therefor. See 35 U.S.C. 132 ("[w]henever, on examination, any claim for a patent is rejected, or any objection or requirement made, the Director shall notify the applicant thereof, stating the reasons for such rejection, or objection or requirement, together with such information and references as may be useful in judging of the propriety of continuing the prosecution of his application"). Neither the issuance of a notice of allowance nor the issuance of an Office action terminates the examination process. If after the issuance of an Office action under 35 U.S.C. 132 it subsequently appears that the applicant is entitled to a patent (e.g., in response to an argument or amendment by the applicant), the USPTO will issue a notice of allowance. Conversely, if after the issuance of a notice of allowance under 35 U.S.C. 151 it subsequently appears that the applicant is not entitled to a patent (e.g., in response to information provided by the applicant or uncovered by the USPTO), the USPTO will withdraw the application from issuance and issue an Office action under 35 U.S.C. 132 stating the applicable rejection, objection, or other requirement, with the reasons therefor.

As held in Blacklight Power, the USPTO's responsibility to issue a patent containing only patentable claims does not end with the issuance of a notice of allowance under 35 U.S.C. 151. See BlackLight Power, Inc. v. Rogan, 295 F.3d 1269, 1273 (Fed. Cir. 2002). Rather, if there is any substantial, reasonable ground within the knowledge or cognizance of the Director as to why an application should not issue, it is the USPTO's duty to refuse to issue the patent even if a notice of allowance has previously been issued for the application. See In re Drawbaugh, 9 App. D.C. 219, 240 (D.C. Cir 1896).

Moreover, the applicant continues to be engaged in the examination process after the mailing of the notice of allowance. 37 CFR 1.56 makes clear that the applicant has a duty to disclose information material to patentability as long as the application is pending before the USPTO (i.e., until a patent is granted or the application is abandoned). See 37 CFR 1.56(a) ("[t]he duty to disclose information exists with respect to each pending claim until the claim is cancelled or withdrawn from consideration, or the application becomes abandoned"). 37 CFR 1.97 and 1.98 provide for the consideration of information submitted by the applicant after a notice of allowance has been mailed. See 37 CFR 1.97(d). In addition, 37 CFR 1.312 provides for the amendment of an application after a notice of allowance has been mailed. In fact, the request for examination procedures³ permit the filing of a request for continued examination under 37 CFR 1.114 even after the issuance of a notice of allowance under 35 U.S.C. 151. See 37 CFR 1.114(a)(1).

As the examination process does not terminate with the mailing of the notice of allowance, the time consumed by continued examination requested by the applicant under section 132(b) does not terminate with the mailing of the notice of allowance. All the time the application is pending from the date of filing of the request for continued examination to the mailing of the notice of allowance through issuance of the patent is a consequence of the filing of the request for continued examination. Further action by the Office is pursuant to that request. Applicant has gotten further prosecution of the application without having to file a continuing application under 37 CFR 1.53(b).

All of the continued examination pursuant to the filing of the request by the applicant is properly excluded from the delay attributed to the Office. 35 U.S.C. 154(b)(1)(B)'s guarantee of a total application pendency of no more than three years provides for adjustment of the patent term for delay due to the Office's failure to issue the patent within three years, but does not include "any time consumed by continued examination requested by the applicant under 35 U.S.C. 132(b)." It is not necessary to mitigate the effect on the 20-year term to the extent that applicant has requested that

³ Thus, on occasion, even where a request for continued examination has already been filed and a notice of allowance issued pursuant to that request, applicant may file a further request for continued examination.

the Office continue to examine the application via a request for continued examination, in lieu of, the filing of a continuing application under 37 CFR 1.53(b).

In this instance, a request for continued examination was filed on April 23, 2009, and the patent issued by virtue of that request on January 11, 2011. Pursuant to 35 U.S.C. 154(b)(1)(B)(i), the period beginning on April 23, 2009 and ending on January 11, 2011 is not included in calculating Office delay.

CONCLUSION

Accordingly, the decision on application for patent term adjustment has been reconsidered and the request for additional patent term is DENIED.

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.

A handwritten signature in black ink, appearing to read 'Anthony Knight', is positioned above the printed name.

Anthony Knight
Director
Office of Petitions



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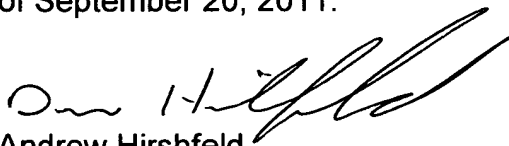
In re Patent No. 7,870,556 :
Issued: January 11, 2011 : FINAL AGENCY DECISION
Application No. 11/434,623 : ON REQUEST TO INVOKE THE :
Filed: May 16, 2006 : SUPERVISORY AUTHORITY
Attorney Docket No. 07470-0095001 : OF THE DIRECTOR

This is a decision on the petition filed November 20, 2011, requesting that the Director review the Final Agency Decision on Request for Reconsideration of Decision on Application for Patent Term Adjustment ("Decision") mailed by the Office of Petitions on September 20, 2011.

The Decision maintains that the above-identified patent is entitled to one hundred sixty (160) days of patent term adjustment ("PTA"). Patentees request that the Director review the decision and modify the PTA calculation to two hundred ninety-one (291) days.

The decision of the Director of the Office of Petitions has been reviewed. However, because no error has been found in the decision, the petition under 37 CFR 1.181 is **DENIED**.

The patent term adjustment remains 160 days, as indicated in the final agency decision of September 20, 2011.


Andrew Hirshfeld
Associate Commissioner for Patent Examination Policy

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number: **60426-780**

Patent Number: **7671859**

Filing Date
(or 371(b) or (f) Date): **05/16/2006**

Issue Date: **03/02/2010**

First Named
Inventor: **Vyacheslav B. Birman**

Title: **THIN INSTRUMENT CLUSTER WITH ANTI-REFLECTIVE COATING**

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature **/John M. Siragusa/**

Date **8-26-2010**

Name
(Print/Typed) **John M. Siragusa**

Registration Number **46174**

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

☐

*Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 09/01/2010

Applicant	: Vyacheslav B. Birman	: DECISION ON REQUEST FOR
Patent Number	: 7671859	: RECALCULATION of PATENT
Issue Date	: 03/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,651	: OF WYETH
Filed	: 05/16/2006	:
		:

The Patentee's Request for Recalculation is **DISMISSED**.

This Request is deemed ineligible for consideration for one or more of the following reasons:

(A). The patent for which PTA recalculation is requested is either a design or reissue application or is a reexamination proceeding;

(B). The patent for which PTA recalculation is requested resulted from a utility or plant application filed under 35 USC 111(a) before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(C). The patent for which PTA recalculation is requested resulted from an international application in which the international filing date was before May 29, 2000 and no CPA filed in the application on/after May 29, 2000;

(D). The patent for which PTA recalculation is requested issued on/after March 2, 2010;

(E). The Request for Recalculation was filed more than 180 days after the grant date of the patent and the request was not filed within two months of a dismissal of a request for reconsideration of the of the patent term under 37 CFR 1.705(d);

(F). The Request for Recalculation is not solely limited to USPTO pre-Wyeth interpretation of 35 U.S.C. 154(b)(2)(A);

or

(G). A civil action was filed pursuant to 35 U.S.C. 154(b)(4)(A) concerning the same patent at issue in this request.

Patentee may file a reply to this decision dismissing the Request for Recalculation. Patentee must file such reply within one month or thirty days, whichever is longer, of the mail date of the decision dismissing the Request for Recalculation. No fee is required if patentee is asserting in the reply that the dismissal for ineligibility is improper.

Patentee should use document code PET.OP if electronically filing a reply to this dismissal. If the USPTO finds that the request was improperly deemed ineligible, the USPTO will mail applicant a recalculation determination.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A). Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

MAILED

JAN 13 2011

In re Application of
William Silvernail Bradford
Application No. 11/434,773
Filed: May 17, 2006
Attorney Docket No. A9907

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW FROM
RECORD**

This is a decision on the Request to Withdraw as attorney or agent of record under 37 CFR §§ 1.36(b) or 10.40 filed October 21, 2010.

The request is **APPROVED**.

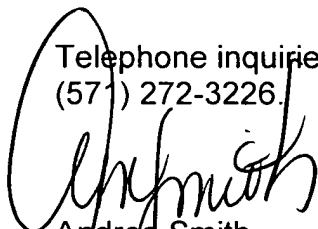
The request was signed by Ellen R. Smith on behalf of herself and all attorneys/agents associated with Customer Number 23373. Therefore, Ellen R. Smith and all the attorneys/agents associated with Customer Number 23373 have been withdrawn.

Applicant is reminded that there are no attorneys/agents of record at this time.

There is an outstanding Office action mailed on September 15, 2010, that requires a reply from the applicant.

All future communications from the Office will be directed to the assignee of record at the address listed below until otherwise properly notified by the applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3226.


Andrea Smith
Petitions Examiner
Office of Petitions

cc: Integrian Acquisition Corp. Inc.
255 Federal Road
Benson, NC 27504



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UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/434,773	05/17/2006	William Silvernail Bradford	A9907

23373
SUGHRUE MION, PLLC
2100 PENNSYLVANIA AVENUE, N.W.
SUITE 800
WASHINGTON, DC 20037

CONFIRMATION NO. 4913
POWER OF ATTORNEY NOTICE



Date Mailed: 01/11/2011

NOTICE REGARDING CHANGE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 10/21/2010.

- The withdrawal as attorney in this application has been accepted. Future correspondence will be mailed to the new address of record. 37 CFR 1.33.

/amsmith/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101



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BROSEMER, KOLEFAS & ASSOCIATES, LLC (ALU)
1 BETHANY ROAD
BUILDING 4 - SUITE # 58
HAZLET, NJ 07730

Mail Date: 08/02/2010

Applicant	: Christopher Richard Doerr	: DECISION ON REQUEST FOR
Patent Number	: 7653306	: RECALCULATION of PATENT
Issue Date	: 01/26/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/434,919	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/16/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **785** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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TAROLLI, SUNDHEIM, COVELL &
TUMMINO L.L.P.
1300 EAST NINTH STREET, SUITE 1700
CLEVELAND OH 44114

MAILED
APR 04 2011
OFFICE OF PETITIONS

In re Patent No. 7,601,828 :
Issue Date: October 13, 2009 :
Application No. 11/434,940 : **DECISION ON PETITION**
Filed: May 16, 2006 :
Attorney Docket No. ISS-8169 :

This is a decision on the Petition For Correction Of Assignee's Name and Request For Certificate Of Correction Of Patent For Applicant's Mistake (37 C.F.R. §1.323), filed November 5, 2010, which is being treated as a Petition Under 37 CFR §3.81(b), to accept the omission of the second and third assignees' names. A completed Certificate of Correction Form was submitted with Petition.

The petition under 37 CFR §3.81(b) is **GRANTED**.

Petitioner urges that the present Petition was submitted to accept the omission of the second and third assignees' names on the previously submitted PTOL 85B and such error was inadvertent. Accordingly, petitioner urges that a Certificate of Correction (PTO/SB/44) be issued to add the omitted second and third assignees' names to the Title Page of the Letters Patent.

37 CFR 3.81(b), effective June 25, 2004, reads:


After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 **before issuance of the patent**, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a) and the processing fee set forth in § 1.17(i) of this chapter.

The requisite \$100.00 fee (Fee Code 1811), as set forth under 37 CFR 1.20(a), and the requisite \$130.00 processing fee (Fee Code 1464), as set forth under 37 CFR 1.17(i), have been submitted. Further, Office assignment records are consistent with the requested correction. Accordingly, since the Petition complies with the provisions of 37 CFR §3.81(b), it is appropriate for the Office to issue a Certificate of Correction in accordance with the content of the Form submitted with the petition.

Inquiries related this communication should be directed to the undersigned at (571)272-3213.

Any questions concerning the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (703)756-1814.

This matter is being referred to the Certificates of Correction Branch for processing of a Certificate of Correction in U.S. Patent No. 7,601,828.


Cheryl Gibson-Baylor
Petitions Examiner
Office of Petitions



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MERCHANT & GOULD PC
P.O. BOX 2903
MINNEAPOLIS MN 55402-0903

MAILED
JUN 16 2011
OFFICE OF PETITIONS

In re Application of :
Adams et al. :
Application No. 11/435,007 : **ON PETITION**
Filed: May 16, 2006 :
Attorney Docket No. 09997.0135US01 :

This is a decision on the REQUEST FOR CERTIFICATE OF CORRECTION, filed March 3, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a certificate of correction.

The request is **DISMISSED**.

Petitioner states that the correct assignee's name is Visys NV, Hasselt (BE) and that an incorrect assignee's name was included on the Part B - Fee(s) Transmittal form at the time of payment of the issue fee. Accordingly, petitioner requests that the patent issue to Visys NV, Hasselt (BE).

37 CFR 3.81(b), effective June 25, 2004, reads:

After payment of the issue fee: Any request for issuance of an application in the name of the assignee submitted after the date of payment of the issue fee, and any request for a patent to be corrected to state the name of the assignee, must state that the assignment was submitted for recordation as set forth in § 3.11 before issuance of the patent, and must include a request for a certificate of correction under § 1.323 of this chapter (accompanied by the fee set forth in § 1.20(a)) and the processing fee set forth in § 1.17(i) of this chapter.

The request under 37 CFR 3.81(b) was not accompanied by the \$130.00 processing fee. As petitioner has failed to comply with the provisions of 37 CFR 3.81(b), the request cannot be granted at this time.

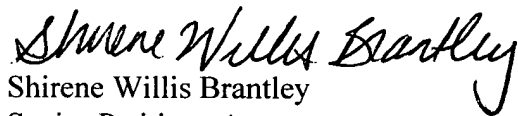
¹ See MPEP 1309, subsection II and Official Gazette of June 22, 2004

A review of Office database assignment records reflects that an assignment to Visys NV, Hasselt (BE) has been recorded. Therefore, upon submission of the required \$130.00 processing fee, it would be appropriate for the Office to issue a certificate of correction to correct the front page of the Letters Patent to reflect that Visys NV, Hasselt (BE) was the assignee of record at the time of issuance of the application into a patent. *Note also 35 U.S.C. § 152.*

In view of the above, the Certificates of Correction Branch is instructed to issue a certificate of correction upon submission by petitioner of the \$130.00 processing fee. No certificate of correction will be issued which sets forth an assignee other than the assignee set forth in this request. A copy of this decision must accompany the \$130.00 processing fee and renewed request for a Certificate of Correction.

No further renewed request under 37 CFR 3.81(b) is necessary for consideration by the Office of Petitions for issuance of a certificate of correction in the name of the assignee set forth in this request, since this decision operates as an instruction to the Certificates of Correction Branch to issue the requested certificate of correction once the processing fee is paid.

Inquiries concerning this decision should be directed to the undersigned at (571) 272-3230. Any questions concerning issuance of a certificate of correction should be directed to the Certificates of Correction Branch at (571) 272-4200.



Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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KEITH FRANTZ
401 WEST STATE STREET
SUITE 200
ROCKFORD IL 61101

MAILED

SEP 29 2011

In re Application of	:	OFFICE OF PETITIONS
Paula L. KELLY	:	
Application No. 11/435,074	:	ON PETITION
Filed: May 16, 2006	:	
Attorney Docket No. N/A	:	

This is a decision on the petition under 37 CFR 1.137(b), filed August 24, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the Final Office Action mailed July 30, 2009 which set a shortened statutory period for reply of three (3) months. No extension of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 31, 2009.


The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment, Request for Continued Examination, and the filing fee of \$405; (2) the petition fee of \$810; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the Final Office Action of July 30, 2009 is accepted as having been unintentionally delayed.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant of 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Application No. 11/435,074

Telephone inquiries concerning this decision should be directed to Wilson Lee at (571) 272-1824 or in his absence, the undersigned at (571) 272-7099.

The application file is being referred to Technology Center AU 3765 for appropriate action on the concurrently filed amendment.



David Bucci
Petitions Examiner
Office of Petitions



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Alexandria, VA 22313-1450
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THOMAS, KAYDEN, HORSTEMEYER & RISLEY, LLP
400 INTERSTATE NORTH PARKWAY SE
SUITE 1500
ATLANTA, GA 30339

MAILED

SEP 01 2011

OFFICE OF PETITIONS

In re Patent No.: 7,228,818
Issue Date: June 12, 2007
Application No.: 11/435,151
Filed: May 16, 2006
Patentee: Mary Ann Lynch

:
:
:
:
:

ON PETITION

This is a decision in response to a petition, filed August 5, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of a maintenance fee for the above-identified patent.

This patent expired on June 12, 2011 for failure to pay the first maintenance fee. Since this petition was submitted within twenty-four months after the six-month grace period provided in 37 CFR 1.362(e), the petition is timely filed under the provisions of 37 CFR 1.378(c).

A petition to accept the unintentionally delayed payment of a maintenance fee under 35 U.S.C. 41(c) and 37 CFR 1.378(c) must be accompanied by: (1) a statement that the delay was unintentional; (2) payment of the appropriate maintenance fee, unless previously submitted; (3) payment of the surcharge set forth in 37 CFR 1.20(i)(2).

The petition is **GRANTED**.

The 3 ½ year maintenance fee in this case is hereby accepted and the above-identified patent is reinstated as of the mail date of this decision.

It is noted that the petition is signed by the inventor, Mary Ann Lynch; however, petitioner has appointed a representative to conduct all business before the U.S. Patent and Trademark Office (Office). If petitioner no longer wishes to be represented by the representative of record, then a revocation of the power of attorney or patent agent should be submitted.

Petitioner is advised that the mere filing of a power of attorney and/or a change of correspondence address will not affect the fee address. Therefore, if petitioner desires to receive future correspondence regarding any Maintenance Fee Reminder which may be mailed regarding maintenance fees for the above-identified patent, a "Fee Address" Indication Form (see PTO/SB/47) and Request for Customer Number (see PTO/SB/125) must also be submitted.

A courtesy copy of this decision is being mailed to the petitioner herein; however, all future correspondence regarding this patent will be directed solely to the above-noted correspondence address of record.

Telephone inquiries concerning this matter may be directed to the undersigned at (571) 272-3204.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

cc: MARY ANN LYNCH
1075 PEACHTREE BATTLE AVE., NW
ATLANTA, GA 30327



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MDIP LLC
POST OFFICE BOX 2630
MONTGOMERY VILLAGE MD 20886-2630

MAILED

OCT 14 2011

OFFICE OF PETITIONS

In re Application of :
Rosenberg, Yvonne :
Application No. 11/435,196 : **ON PETITION.**
Filed: May 16, 2006 :
Attorney Docket No. 163120-0126100 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 26, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely and properly file a reply within the meaning of 37 CFR 1.113 to the final Office action of May 6, 2010. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A three-month extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained on November 6, 2010. Accordingly, the date of abandonment of this application is November 7, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and the submission required by 37 CFR 1.114; (2) the petition fee of \$930.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This application is being referred to Technology Center AU 1632 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions



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P.O. Box 1450
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Date : 3/104/11
Patent No. : 7,889,847 B2
Serial No. : 11/435,241
Inventor(s) : Gainsboro
Issued : February 15, 2011
Title : **COMPUTER-BASED METHOD AND APPARATUS
FOR CONTROLLING, MONITORING, RECORDING
AND REPORTING TELEPHONE ACCESS**
Docket No. : **18279-11595**

Re: Request for Reconsideration

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of 37 CFR 1.322 and/or 1.323.

Assignees' names and addresses (assignment data) printed in a patent are based *solely* on information supplied in the appropriate space for identifying the assignment data, i.e., item 3 of the Fee(s) Transmittal Form PTOL-85B. After payment of the issue fee, correction of assignment data submitted on the PTOL-85B can only be done by Certificate of Correction under 37 CFR 1.323, with a request under 37 CFR 3.81(b).

A petition is required to correct the Assignee, under 37 CFR 1.183, and should include: (1) the petition fee set forth in 37 CFR 1.117(h) (currently \$130); (2) the correct name and address of the assignee; (3) the reel and frame number where the assignment is recorded or proof of the date the assignment was submitted for recordation.

A request for a patent to be corrected to state the name of the assignee must:

- A. state that the assignment was submitted for recordation as set forth in 37 CFR 3.11 before issuance of the patent;
- B. include a request for a certificate of correction under 37 CFR 1.323 along with the fee set forth in 37 CFR 1.20(a); and
- C. include the processing fee set forth in 37 CFR 1.17(i).

If the request is granted, Certificates of Correction Branch will be notified that a Certificate of Correction may be issued.

See Manual of Patent Examining Procedure, Section 1481.01 (Rev. 3) (Oct. 2005).

Applicant has not included items A and or C above, accordingly, the request for Certificate of Correction to add or change the assignee data is dismissed.

Any request under 37 CFR 3.81(b) should be directed to the following address or facsimile number:

By mail: Mail Stop PETITIONS
 Commissioner for Patents
 Post Office Box 1450
 Alexandria, VA 22313-1450

By hand: Customer Service Window
 Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By fax: 571-273-8300
 ATTN: Office of Petitions

If a fee (currently \$100) was previously submitted for consideration of a Request for Certificate of Correction, under CFR 1.323, to correct assignment data, no additional fee is required.

Ernest C. White, LIE
ernest.white@uspto.gov
(571) 272-3385

For Mary F. Diggs (703) 756-1580
Decisions & Certificates
of Correction Branch

FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

ecw



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FENWICK & WEST LLP
SILICON VALLEY CENTER
801 CALIFORNIA STREET
MOUNTAIN VIEW CA 94041

MAILED
JUL 22 2011
OFFICE OF PETITIONS

In re Patent No. 7,889,847
Application No. 11/435,241
Filed: May 15, 2006
Issued: February 15, 2011
Attorney Docket No. 18279-11595

ON PETITION

This is a decision on the petition filed April 7, 2011, which is being treated as a request under 37 CFR 3.81(b)¹ to correct the name of the assignee on the front page of the above-identified patent by way of a Certificate of Correction.

The request is **GRANTED**.

This matter is being referred to the Certificates of Correction Branch for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3206. Inquiries regarding the issuance of a certificate of correction should be directed to the Certificate of Correction Branch at (571) 272-4200.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

¹ See MPEP 1309, subsection II; and Official Gazette of June 22, 2004.



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MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON VA 22201

MAILED

AUG 13 2010

In re Application of	:	OFFICE OF PETITIONS
IRGUM et al.	:	
Application No. 11/435,280	:	DECISION ON PETITION
Filed: 05/17/2006	:	
Attorney Docket No. MERCK-3548	:	

This is a decision on the petition under 37 CFR 1.181 filed March 10, 2010, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

This application was held abandoned for failure to reply to the Notice to File Missing Parts of Nonprovisional Application mailed June 14, 2006, which set a two month extendable period for reply. A Notice of Abandonment was mailed on February 21, 2007.

Petitioner asserts that the Notice to File Missing Parts of Nonprovisional Application of June 14, 2006, and the Notice of Abandonment of February 21, 2007, were not received because they were mailed to an incorrect correspondence address.

A review of the written record indicates an irregularity in the mailing of the Notice to File Missing Parts of Nonprovisional Application mailed June 14, 2006, and the Notice of Abandonment mailed February 21, 2007. As the Notices were mailed to an incorrect address, the holding of abandonment is hereby withdrawn.

This application is being referred to the Office of Patent Application Processing.

C. T. Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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IBM CORPORATION, T.J. WATSON RESEARCH CENTER
P.O. BOX 218
YORKTOWN HEIGHTS NY 10598

MAILED

AUG 23 2010

In re Application of	:	OFFICE OF PETITIONS
Yang et al.	:	
Application No. 11/435,410	:	DECISION ON PETITION
Filed: May 17, 2006	:	
Attorney Docket No. YOR920060250US1	:	
(19778)	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 29, 2010, to revive the above-identified application.

The petition is **GRANTED**.

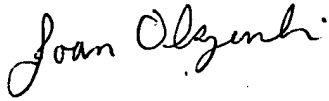
This application became abandoned for failure to timely pay the issue and publication fees on or before April 7, 2010, as required by the Notice of Allowance and Fee(s) Due mailed January 7, 2010. Accordingly, the date of abandonment of this application is April 8, 2010. A Notice of Abandonment was mailed April 26, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1,510.00 and publication fee of \$300.00; (2) the petition fee of \$1,620.00; and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to the Office of Data Management for processing into a patent.

A handwritten signature in cursive script, reading "Joan Olszewski".

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Leslie S. Szivos
Scully, Scott, Murphy & Presser, P.C.
400 Garden City Plaza, Suite 300
Garden City, New York 11530



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Alexandria, VA 22313-1450
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KHORSANDI PATENT LAW GROUP,
A.L.C.
140 S. LAKE., SUITE 312
PASADENA CA 91101-4710

MAILED

DEC 13 2010

OFFICE OF PETITIONS

In re Application of	:	
John Roland Clem	:	
Application No. 11/435,453	:	
Filed: May 16, 2006	:	
Attorney Docket No.	:	ON APPLICATION FOR
PSTA0021/MRK	:	PATENT TERM ADJUSTMENT
Title: ROLLS OF IMAGE-	:	
CUSTOMIZED VALUE-BEARING ITEMS	:	
AND SYSTEMS AND METHODS FOR	:	
PROVIDING ROLLS OF IMAGE-	:	
CUSTOMIZED VALUE-BEARING ITEMS	:	

This is a decision on the "APPLICATION FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT INDICATED IN NOTICE OF ALLOWANCE UNDER 37 C.F.R. § 1.705(b)," filed November 4, 2010. Applicant requests that the initial Determination of Patent Term Adjustment under 35 U.S.C. 154(b) be corrected. Applicant requests that the determination of patent term adjustment be corrected to six hundred forty-three (643) days instead of the six hundred eighty-five (685) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction partly on the basis that the Office will take in excess of three years to issue this patent. In addition, applicants contend that an additional reduction of 2 days is required. Further applicant contends the 40 day adjustment overlaps with Office three year delay.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

To the extent that the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for

patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Applicant's request for removal of the 40 day adjustment is premature. If it is determined that the 40 day adjustment overlaps with over three year delay, the appropriate adjustment will be made upon the issuance of the patent.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, Applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance,

applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

To the extent that Applicants otherwise request reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the request is GRANTED.

The Office has updated the PAIR screen to reflect that the correct Patent Term Adjustment (PTA) determination at the time of the mailing of the Notice of Allowance is six hundred eighty-three (683) days. A copy of the updated PAIR screen, showing the correct determination, is enclosed

Applicant contends a two day reduction is required for the submission of a supplemental reply in the form of an Information Disclosure Statement (IDS) on July 22, 2010.

Pursuant to 37 CFR § 1.704(c), circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

- (8) Submission of a supplemental reply or other paper, other than a supplemental reply or other paper expressly requested by the examiner, after a reply has been filed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date the initial reply was filed and ending on the date that the supplemental reply or other such paper was filed.

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

A review of the record confirms that the supplemental reply in the form of IDS was not requested by the examiner nor did the IDS referenced contain a statement in accordance with 37 CFR 1.704(d). The IDS was submitted after the reply (request for continued examination (RCE)) was submitted on July 20, 2010. Accordingly, an additional period of reduction of 2 days is required.

Applicant's delay prior to the mailing of the Notice of Allowance is 3 days,

In view thereof, the correct patent term adjustment at the time of the mailing of the notice of allowance is 683 days.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Charlema Grant at (571) 272-3215.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of REVISED PALM Screen



Patent Term Adjustments



PTA/PTE Information Patent Term Adjustment Patent Term Extension

Application Number*: 11435453 Search Explanation of PTA Calculation Explanation of PTE Calculation

PTA Calculations for Application: 11435453

Application Filing Date 05/16/2006	Overlapping Days Between (A and B) or (A and C) 0
Issue Date of Patent	Non-Overlapping USPTO Delays: 686
A Delays 686	PTO Manual Adjustment: 2
B Delays 0	Applicant Delay (APPL): 1
C Delays 0	Total PTA (days) 683

* - Sorted Column

File Contents History

Action Number	Action Recorded Date	Action Due Date	Action Code	Action Description	Duration PTO	Duration APPL	Parent Action Number
70	12/12/2010		P026	Adjustment of PTA Calculation by PTO	2	0	
60	08/05/2010		NH/-	Mail Notice of Allowance		0	
59	08/03/2010		IREV	Issue Revision Completed		0	
58	08/03/2010		N/-	Notice of Allowance Data Verification Completed		0	
57	08/03/2010		DVER	Document Verification		0	
56	08/03/2010		CNTA	Notice of Allowability		0	
55	07/22/2010		IDSC	Information Disclosure Statement considered		0	
54	07/22/2010		WIDS	Information Disclosure Statement (IDS) Filed		0	
53	07/21/2010		FWDX	Date Forwarded to Examiner		0	
50	07/21/2010		ABN9	Disposal for a RCE / CPA / R129		0	
52	07/20/2010		AMS6	Amendment Submitted/Entered with Filing of CPA/RCE		0	
51	07/20/2010		RCEX	Request for Continued Examination (RCE)		0	
49	07/20/2010		BRCE	Workflow - Request for RCE - Begin		0	
48	04/21/2010	03/12/2010	MCTFR	Mail Final Rejection (PTOL - 326)	40	37	
47	04/21/2010		CTFR	Final Rejection		0	
38	03/04/2010		FWDX	Date Forwarded to Examiner		0	
46	11/12/2009		IDSC	Information Disclosure Statement considered		0	
45	11/12/2009		IDSC	Information Disclosure Statement considered		0	
44	11/12/2009		IDSC	Information Disclosure Statement considered		0	
43	11/12/2009		IDSC	Information Disclosure Statement considered		0	
42	11/12/2009		IDSC	Information Disclosure Statement considered		0	
41	11/12/2009		IDSC	Information Disclosure Statement considered		0	
40	11/12/2009		IDSC	Information Disclosure Statement considered		0	
39	11/12/2009		IDSC	Information Disclosure Statement considered		0	
37	11/12/2009	11/11/2009	A...	Response after Non-Final Action	1	25	
36	11/12/2009		EIDS	Electronic Information Disclosure Statement		0	
35	11/12/2009		EIDS	Electronic Information Disclosure Statement		0	
34	11/12/2009		EIDS	Electronic Information Disclosure Statement		0	
33	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
32	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
31	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
30	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
29	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
28	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
27	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
26	11/12/2009		WIDS	Information Disclosure Statement (IDS) Filed		0	
25	08/11/2009		MCTNF	Mail Non-Final Rejection		0	
24	08/10/2009		CTNF	Non-Final Rejection		0	
19	06/09/2009		FWDX	Date Forwarded to Examiner		0	
20	05/22/2009		C604	Substitute Specification Filed		0	
18	05/22/2009		ELC	Response to Election / Restriction Filed		0	
17	05/08/2009		CADB	Correspondence Address Change		0	
16	04/22/2009	07/16/2007	MCTRS	Mail Restriction Requirement	646	1	
15	04/22/2009		CTRS	Requirement for Restriction / Election		0	
14	01/06/2009		DOCK	Case Docketed to Examiner in GAU		0	
13	05/31/2008		DOCK	Case Docketed to Examiner in GAU		0	
12	10/04/2006		TSSCOMP	IFW T&S Processing by Tech Center Complete		0	
11	09/28/2006		OIPE	Application Dispatched from OIPE		0	
10	09/28/2006		COMP	Application Is Now Complete		0	
9	09/14/2006		ADDFLFE	Additional Application Filing Fees		0	
8	09/14/2006		CORRDRW	Applicant has submitted new drawings to correct Corrected Papers problems		0	
6	07/12/2006		CPAP	Corrected Paper		0	
4	06/16/2006		L128	Cleared by L&R (LARS)		0	
3	05/31/2006		L198	Referred to Level 2 (LARS) by OIPE CSR		0	
2	05/24/2006		SCAN	IFW Scan & PACR Auto Security Review		0	
5	05/16/2006		NPRQ	PGPubs nonPub Request		0	
1	05/16/2006		TEXX	Initial Exam Team nn		0	

Export to: Excel



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**MITSUBISHI ELECTRIC RESEARCH
LABORATORIES, INC.
201 BROADWAY
8TH FLOOR
CAMBRIDGE MA 02139**

MAILED

MAY 03 2011

OFFICE OF PETITIONS

In re Application of :
RASKAR, et al :
Application No. 11/435,565 : **DECISION ON PETITION**
Filed: May 17, 2006 :
Attorney Docket No. MERL-1826 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed March 23, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely pay the issue and publication fees on or before February 15, 2011, as required by the Notice of Allowance and Fee(s) Due, mailed November 15, 2010, which set a statutory period for reply of three (3) months. Accordingly, the application became abandoned on February 16, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of payment of the issue fee of \$1510 and the publication fee of \$300; (2) the petition fee of \$1620; and (3) the required statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

The application is being referred to the Office of Data Management for processing into a patent.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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ALCON
IP LEGAL, TB4-8
6201 SOUTH FREEWAY
FORT WORTH, TX 76134

MAILED

AUG 20 2010

OFFICE OF PETITIONS

In re Application of
Xin HONG, et al.
Application No. 11/435,905
Filed: May 17, 2006
Attorney Docket No. **2903**

:
:
: DECISION GRANTING PETITION
: UNDER 37 CFR 1.313(c)(2)
:

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 19, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on June 17, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

There is no indication that the person signing the petition was ever given a power of attorney or authorization of agent to prosecute the above-identified application. However, the signature of Jonathan E. Prejean appearing on the petition shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts in accordance with 37 CFR 1.34(a).

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2873 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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WITHROW & TERRANOVA, P.L.L.C.
100 REGENCY FOREST DRIVE, SUITE 160
CARY, NC 27518

MAILED
MAY 17 2011
OFFICE OF PETITIONS

In re Application of :
T. Scott MORRIS, et al. :
Application No. 11/435,913 : DECISION GRANTING PETITION
Filed: May 17, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. **2867-405** :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed May 16, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on May 2, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-7253.

This application is being referred to Technology Center AU 2895 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/Monica A. Graves/
Petitions Examiner, Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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WOODLING, KROST AND RUST
9213 CHILLICOTHE ROAD
KIRTLAND OH 44094

MAILED

SEP 13 2010

OFFICE OF PETITIONS

In re Application of	:	
Karte, Thomas et al.	:	
Application No. 11/435,926	:	DECISION ON PETITION
Filed: May 18, 2006	:	TO WITHDRAW
Attorney Docket No. 8314	:	FROM RECORD
	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed August 09, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office requires the practitioner(s) requesting withdrawal to certify that he, she, or they have: (1) given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any responses that may be due and the time frame within which the client must respond, pursuant 37 CFR 10.40(c).

The request was signed by Karl Kurple. Karl Kurple has been withdrawn as attorney or agent of record; all other attorneys remain of record.

The correspondence address of record remains unchanged.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272-2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

April 19, 2011

Joe McKinney Muncy
4000 Legato Raod, Suite 310
Fairfax VA 22033

In re Application of	:	
Albert Chen, et al	:	DECISION ON PETITION
Application No. 11435948	:	
Filed: May 18, 2006	:	ACCEPTANCE OF COLOR
Attorney Docket No. 5207-0138PUS1	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 18, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Laura Feldman/
Quality Control Specialist
Office of Data Management
Publications Branch



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

11/435,948

05/18/2006

Albert Chen

5207-0138PUS1

7749

7590 04/20/2011
Joe McKinney Muncy
4000 Legato Raod, Suite 310
Fairfax, VA 22033

EXAMINER

SHEDRICK, CHARLES TERRELL

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

04/20/2011

PAPER

ACKNOWLEDGEMENT OF REQUEST

Notice of Allowance/Allowability Mailed

The request to print a color drawing reference as the first paragraph in the portion of the specification containing a brief description of the drawings as required by 37 CFR 1.84 and MPEP § 608.02 has been received by the United States Patent and Trademark Office and will be entered into the specification.

571-272-4200 or 1-888-786-0101
Application Assistance Unit
Office of Data Management



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SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY MN 55125

MAILED

AUG 26 2010

In re Application of
Carlson et al.
Application No. 11/436,102
Filed: May 17, 2006
Attorney Docket No. 1035-003US01

: **OFFICE OF PETITIONS**
:
: **DECISION GRANTING PETITION**
: **UNDER 37 CFR 1.78(a)(3)**
:

This is a decision on the renewed petition under 37 CFR 1.78(a)(3), filed July 19, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional applications set forth in the amendment filed April 8, 2010.

The petition is **GRANTED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant nonprovisional application was filed after November 29, 2000, and the claim herein for the benefit of priority to the prior-filed nonprovisional applications is submitted after expiration of the period specified by 37 CFR 1.78(a)(2)(ii). Therefore, this is a proper petition under 37 CFR 1.78(a)(3).

The petition complies with the requirements for a grantable petition under 37 CFR 1.78(a)(3) in that (1) a reference to the prior-filed nonprovisional applications has been included in an amendment to the first sentence of the specification following the title, as provided by 37 CFR 1.78(a)(2)(iii); (2) the surcharge fee required by 37 CFR 1.17(t) has been submitted; and (3) the petition contains a proper statement of unintentional delay. Accordingly, having found that the instant petition for acceptance of an unintentionally

delayed claim for the benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications satisfies the conditions of 37 CFR 1.78(a)(3), the petition is granted.

The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) should not be construed as meaning that the instant application is entitled to the benefit of the prior-filed applications. In order for the instant application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. § 120 and 37 CFR 1.78(a)(1) and (a)(2) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this benefit claim and determine whether the instant application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed nonprovisional applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Joan Olszewski at (571) 272-7751.

This matter is being referred to Technology Center Art Unit 2444 for appropriate action on the amendment filed April 8, 2009, including consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. § 120 to the prior-filed nonprovisional applications.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/436,102	05/17/2006	2444	1240	1035-007US01	47	3

CONFIRMATION NO. 6133

CORRECTED FILING RECEIPT



OC000000043215495

28863
SHUMAKER & SIEFFERT, P. A.
1625 RADIO DRIVE
SUITE 300
WOODBURY, MN 55125

Date Mailed: 08/26/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Brent A. Carlson, Rochester, MN;
Timothy J. Graser, Spring Valley, MN;

Assignment For Published Patent Application

LogicLibrary, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 28863

Domestic Priority data as claimed by applicant

This appln claims benefit of 60/682,937 05/20/2005
and is a CIP of 10/109,601 03/26/2002 PAT 7,149,734
which is a CIP of 10/100,749 03/18/2002 PAT 7,322,024

Foreign Applications

If Required, Foreign Filing License Granted: 06/09/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/436,102**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Customizable asset governance for a distributed reusable software library

Preliminary Class

709

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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NIXON PEABODY, LLP
401 9TH STREET,NW
SUITE 900
WASHINGTON DC 20004-2128

MAILED

JUL 08 2011

OFFICE OF PETITIONS

In re Application of :
Kengo Akimoto et al :
Application No. 11/436,131 : DECISION GRANTING PETITION
Filed: May 18, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 740756-2977 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed July 7, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 5, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries should be directed to the undersigned at (571) 272-3208.

This application is being referred to Technology Center AU 2818 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed IDS.

/Karen Creasy/
Karen Creasy
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

Patent 7,965,650

PATENT

IN UNITED STATES PATENT AND TRADEMARK OFFICE

Patent No.: 7,965,650

Docket No: 1370.222US1

Issue Date: June 21, 2011

Patentee: Joonbum Byun et al.

Customer No.: 21186

Confirmation No.: 6337

Title METHOD AND SYSTEM FOR QUALITY MONITORING OF MEDIA OVER
INTERNET PROTOCOL (MOIP)

REQUEST FOR CERTIFICATE OF CORRECTION

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

ATTN: CERTIFICATE OF CORRECTION BRANCH

Approved.

T.H. 4/17/2012

It is requested that a Certificate of Correction be issued correcting printing errors appearing in the above-identified United States patent. A copy of the text of the Certificate in the suggested form is enclosed.

Authorization to charge Deposit Account No. 19-0743 in the amount of \$100.00 to cover the Certificate of Correction Fee.

Issuance of the Certificate of Correction would neither expand nor contract the scope of the claims as properly allowed, and re-examination is not required.

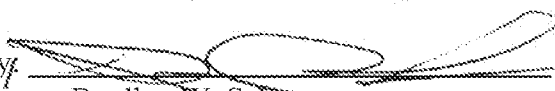
The Examiner is authorized to charge any additional fees or credit overpayment to Deposit Account No.19-0743.

Respectfully Submitted,

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. Box 2938
Minneapolis, MN 55402
(612) 373-6900

Date : 08/04/11

By


Bradley W. Scheer
Reg. No: 47,059
BWS:rk

CERTIFICATE UNDER 37 CFR § 1.8: The undersigned hereby certifies that this correspondence is filed using the USPTO's electronic filing system EFS-Web, and is addressed to: Commissioner for Patents, P.O. Box 1450 Alexandria, VA 22313-1450, on this 04 day of August 2011

Sallie Knudsen
Name

/Sallie Knudsen/
Signature

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.
(Form PTO-1050)

UNITED STATES PATENT AND TRADEMARK OFFICE CERTIFICATE OF CORRECTION

PATENT NO : 7,965,650

Page (1) of 1

DATED : June 21, 2011

INVENTOR(S) : Joonbum Byun et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

In column 12, line 13, in Claim 22, delete "a" and insert -- and a --, therefor.

MAILING ADDRESS OF SENDER:

SCHWEGMAN, LUNDBERG & WOESSNER, P.A.
P.O. BOX 2938
Minneapolis, MN 55402

Atty Docket No: 1370.222US1

PATENT NO. 7,965,650

No. of additional copies



SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.:20120417

DATE : April 17, 2012

TO SPE OF : ART UNIT 2463 Attn: Ly Anh-Vu (Acting SPE)

SUBJECT : Request for Certificate of Correction on Patent No.: 7965650

A response is requested with respect to the accompanying request for a certificate of correction.

Please complete this form and return with file, within **7** days to:

Certificates of Correction Branch - PK 3-910

Palm location **7590** - Tel. No. 305-8201

With respect to the change(s) requested, correcting Office and/or Applicant's errors, should the patent read as shown in the certificate of correction? No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Thank You For Your Assistance

Certificates of Correction Branch

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☐ **Denied**

State the reasons for denial below.

Comments:

SPE: avl

Art Unit 2463



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CORPORATE INTELLECTUAL PROPERTY
ONE HEALTH PLAZA 101/2
EAST HANOVER NJ 07936-1080

MAILED

DEC 07 2011

OFFICE OF PETITIONS

In re Application of :
Walter Cecka et al. :
Application No. 11/436,239 : **DECISION ON PETITION**
Filed: May 18, 2006 :
Attorney Docket No. PAT053337-US-CNT :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 25, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Examiner's Answer mailed May 11, 2011 which contained a new ground of rejection. The Examiner's Answer set a period for reply of two (2) months from the mail date of the Answer. No response was received. Accordingly, the application became abandoned on July 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Reply Brief, (2) the petition fee of \$1,620, and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to Carl Friedman at (571)272-6842.

This application is being referred to Technology Center Art Unit 3771 for consideration of the Reply Brief filed August 25, 2011.

Carl Friedman
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
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GREENBERG TRAURIG, LLP
ONE INTERNATIONAL PLACE, 20th FL
ATTN: PATENT ADMINISTRATOR
BOSTON MA 02110

MAILED
MAR 25 2011
OFFICE OF PETITIONS

In re Application of

BRIER, John J., Jr. et al.

Application No. 11/436,250

Filed: May 18, 2006

Attorney Docket No. 93362-010101

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed February 25, 2011.

The request is **NOT APPROVED**.

The Office has revised its change in procedure for request to withdraw from representation applies to requests filed on or after May 12, 2008.

The Office will no longer accept address changes to a new practitioner or law firm filed with a Request, absent the filing of a power of attorney to the new representative. The Office will either change the correspondence address of record to the most current address information provided for the assignee of the entire interest who properly became of record under 37 CFR 3.71 or, if no assignee of the entire interest has properly been made of record under 37 CFR 3.71, the most current address information provided for the first named inventor.

Accordingly, the request to withdraw from record cannot be approved because the request to change the correspondence address is not that of: (1) the first named inventor; or (2) an assignee of the entire interest under 37 C.F.R. 3.71 who has properly intervened.

If an assignee has intervened in this application, then a Statement under 37 CFR 3.73(b) or a copy of the actual assignment must be submitted with a renewed request.

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to Tredelle Jackson at 571-272- 2783.

/Tredelle D. Jackson/
Paralegal Specialist
Office of Petitions

cc: **GAMING SOLUTIONS INTERNATIONAL, LLC**
2360 BAYOU BOULEVARD
PENSACOLA, FLORIDA 32503

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11436250	
Filing Date	18-May-2006	
First Named Inventor	John Brier	
Art Unit	2442	
Examiner Name	DOUGLAS BLAIR	
Attorney Docket Number	93362-010101	
Title	Systems and methods for data mining and interactive presentation of same	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 35893		
The reason(s) for this request are those described in 37 CFR: 10.40(c)(1)(iv) 10.40(b)(c)(1)(vi)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	John J. Brier, Jr.	
Address	2360 Bayou Boulevard	
City	Pensacola	
State	FL	
Postal Code	32503	

Country	US
I am authorized to sign on behalf of myself and all withdrawing practitioners.	
Signature	/Seth A. Milman/
Name	Seth A. Milman
Registration Number	64573



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : April 5, 2011

In re Application of :

John Brier

Application No : 11436250

Filed : 18-May-2006

Attorney Docket No : 93362-010101

DECISION ON REQUEST TO WITHDRAW AS
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed April 5, 2011

The request is **APPROVED**.

The request was signed by Seth A. Milman (registration no. 64573) on behalf of all attorneys/agents associated with Customer Number 35893 . All attorneys/agents associated with Customer Number 35893 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name John J. Brier, Jr.

Name2

Address 1 2360 Bayou Boulevard

Address 2

City Pensacola

State FL

Postal Code 32503

Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



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BUTZEL LONG
IP DOCKETING DEPT
350 SOUTH MAIN STREET
SUITE 300
ANN ARBOR, MI 48104

MAILED

AUG 27 2010

In re Application of
Karl Noffz
Application No. 11/436,275
Filed: May 18, 2006
Attorney Docket No. 113601-0208

OFFICE OF PETITIONS
ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed August 2, 2010, to revive the above-identified application.


The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of December 17, 2008. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(II)(A)(2). No extensions of time pursuant to the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment of this application is March 18, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$810, and the submission required by 37 CFR 1.114; (2) the petition fee of \$1620; and (3) a proper statement of unintentional delay.

In view of the above, the petition is **GRANTED**.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3632 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.


April M. Wise
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/436,284	05/18/2006	Ian Shaeffer	RAMB-01070US0	7692
38456 7590 10/19/2011 DENIRO/RAMBUS 575 MARKET STREET SUITE 2500 SAN FRANCISCO, CA 94105			EXAMINER CHAUDRY, MUJTABA M	
			ART UNIT 2112	PAPER NUMBER
			MAIL DATE 10/19/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

MAILED
OCT 19 2011
Technology Center 2100



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DENIRO/RAMBUS
575 MARKET STREET
SUITE 2500
SAN FRANCISCO, CA 94105

In re Application of: SHAEFFER, et al.)
Application No. 11/436,284) DECISION ON PETITION FOR
Attorney Docket No. RAMB-01070/US0) SUPERVISORY REVIEW
Filed: 05/19/2006) UNDER 37 CFR §1.181
For: SYSTEM TO DETECT AND)
IDENTIFY ERRORS IN CONTROL)
INFORMATION, READ DATA AND/OR)
WRITE DATA)

This is a decision on the petition under 37 CFR § 1.181, filed September 15, 2011, requesting the Commissioner to invoke his supervisory authority and withdraw the finality of the final Office action mailed June 23, 2011.

A petition under 37 CFR § 1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. *Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings.* There is no fee required for a 1.181 petition.

The petition is **GRANTED**.

RECENT PROSECUTION HISTORY

- (1) On October 7, 2010, a final Office action was mailed, wherein all pending claims were rejected.
- (2) On December 7, 2010, an after final amendment and remarks were filed.
- (3) On December 14, 2010, an advisory action was mailed, indicating that the amendment of Dec. 7, 2010 would not be entered.
- (4) On January 6, 2011, a Request for Continued Examination was filed along with an amendment to the claims.
- (5) On June 23, 2011, a final Office action was mailed, wherein claims all pending claims were rejected.
- (6) On August 18, 2011, an after final amendment and remarks were filed.

(7) On August 29, 2011, an advisory action was mailed, indicating that the amendment of Aug. 18, 2011 would not be entered.

(8) On September 15, 2011, the instant petition was filed.

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests 1) withdrawal of the finality of the June 23, 2011 Office action and 2) waiver (or refund) of the petition fee.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

706.07(b) [R-6] Final Rejection, When Proper on First Action

The claims of a new application may be finally rejected in the first Office action in those situations where (A) the new application is a continuing application of, or a substitute for, an earlier application, and (B) all claims of the new application (1) are *drawn to the same invention claimed in the earlier application, and* (2) *would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the earlier application.* *<emphasis added>*

> The claims of an application for which a request for continued examination (RCE) has been filed may be finally rejected in the action immediately subsequent to the filing of the RCE (with a submission and fee under 37 CFR 1.114) where all the claims in the application after the entry of the submission under 37 CFR 1.114 (A) are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114, and (B) would have been properly finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to the filing of the RCE under 37 CFR 1.114.<

However, it would not be proper to make final a first Office action in a continuing or substitute application >or an RCE< where that application contains material which was presented in the earlier application after final rejection or closing of prosecution but was denied entry because (A) new issues were raised that required further consideration and/or search, or (B) the issue of new matter was raised.

MPEP § 706.07(d) states in part that:

If, on request by applicant for reconsideration, the primary examiner finds the final rejection to have been premature, he or she should withdraw the finality of the rejection.

MPEP § 706.07(e) states in part that:

When a final rejection is withdrawn, all amendments filed after the final rejection *are ordinarily entered*.

A review of the prosecution record reveals that amended independent claims 17 & 37, submitted with the amendment filed simultaneously with the RCE of January 6, 2011, differ in breadth and scope from the claims previously examined in the instant application. Claims 17 & 37 currently recite a “processing” step and a “circuit to process” that does not appear in any of the previously presented version of claims and thus has not been previously considered by the Examiner. Therefore, such limitation would have required further consideration and search. This constitutes a basis for consideration as a claim that is *not* drawn to the same invention as claimed in the earlier application (as discussed in MPEP 706.07(b)).

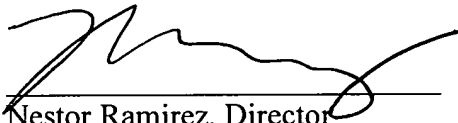
In addition and consistent with Petitioner's remarks, the grounds in the rejection of record found in the final rejection mailed October 7, 2010, was all pending claims rejected under 35 U.S.C. 103(a), Hartwell ('770) in view of Peterson ('455). However, in the final rejection of June 23, 2011, new grounds of rejection are presented by way of 35 U.S.C. 112, second paragraph as well as a rejection under 35 U.S.C. 102(e), Hartwell ('770) alone. Neither subsequent rejection are considered to be "**rejection on grounds of record**". For this additional reason, the final Office action, mailed on June 23, 2011 is improper.

CONCLUSION

For the above stated reasons, the petition to withdraw the finality of the final Office action of June 23, 2011 is **GRANTED**.

The application file is being forwarded to the tech. support staff to **WITHDRAW** the finality of the previous Office action and to **ENTER** and **PROCESS** the amendment filed August 18, 2011. The petition fee (\$130.00) charged on September 16, 2011, will be refunded in accordance with 37 CFR § 1.181(d). The file will then be forwarded to the Examiner for appropriate action and prompt consideration of the response filed August 18, 2011.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.



Nestor Ramirez, Director
Technology Center 2100
Computer Architecture and Software



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
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THE NATH LAW GROUP
112 SOUTH WEST STREET
ALEXANDRIA, VA 22314

MAILED

AUG 16 2010

OFFICE OF PETITIONS

In re Application of
Hong Mo MOON, et.al.
Application No. 11/436,377
Filed: May 18, 2006
Attorney Docket No. **DBLC 1038310**

DECISION ON PETITION
UNDER 37 CFR 1.55(c)

This is a decision on the petition under 37 CFR 1.55(c), filed January 20, 2010, to accept an unintentionally delayed claim under 35 U.S.C. § 119(a)-(d) for benefit of priority to the filing date of foreign Korean Application No. KR 10-2004-0117100, filed December 30, 2004.

The petition is **DISMISSED**.

This application was filed after November 29, 2000, and did not include a reference to the foreign application, for which benefit is now sought, within the later of four months from the actual filing date of the application or sixteen months from the filing date of the prior foreign application. Since the claim for priority is submitted after the period specified in 37 CFR 1.55(a)(1)(i), this is an appropriate petition under the provisions of 37 CFR 1.55(c).

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and

- (5) **the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.**

The petition fails to comply with item (5) above. In this regard, a review of the file record discloses that the above-identified nonprovisional application was filed May 18, 2006, which is after November 29, 2000. However, it is not within 12 months of the filing date of the foreign application to which benefit is now being claimed under 37 CFR 1.55. Note MPEP 201.14.

In view of the above, this request is not in compliance and cannot be accepted. Any future petition should include a cover letter and be entitled "Renewed Petition under 37 CFR 1.55(c)."


Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Service Window
Mail Stop Petitions
Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Monica A. Graves at (571) 272-7253.


Thurman K. Page
Petitions Examiner
Office of Petitions



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THE NATH LAW GROUP
112 South West Street
Alexandria VA 22314

MAILED
APR 06 2011
OFFICE OF PETITIONS

In re Application of	:
MOON et al.	:
Application No. 11/436,377	: DECISION ON PETITIONS
Filed: May 18, 2006	: UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. DBLC 1038310	: AND 37 CFR 1.55(c)

This is a decision on the renewed petitions under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c), filed September 28, 2010, to accept an unintentionally delayed claim under 35 U.S.C. §§ 120 and 365(c) for the benefit of priority to prior-filed nonprovisional and PCT applications, and under 35 U.S.C. § 119(a)-(d) for the benefit of a prior-filed foreign application, as set forth in the concurrently filed amendment and declaration, respectively.

As to the benefit claim under 37 CFR 1.78(a)(3):

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000 and after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application, unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

All of the requirements being met, the petition to accept an unintentionally delayed claim for priority under 35 U.S.C. §§ 120 and 365(c) is **GRANTED**.

As to the benefit claim under 37 CFR 1.55(c):

A petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for priority requires:

- (1) The nonprovisional application claiming the benefit of an earlier filing date must be filed on or after November 29, 2000;
- (2) the claim submitted with the petition must identify the prior foreign application for which priority is claimed, as well as any foreign application for the same subject matter and having a filing date before that of the application for which priority is claimed, by the application number, country, and the filing date, and be included either in an oath or declaration (37 CFR 1.63(c)(2)) or in an Application Data Sheet (37 CFR 1.76(b)(6));
- (3) the surcharge as set forth in 37 CFR 1.17(t);
- (4) a statement that the entire delay between the date the claim was due under 37 CFR 1.55(a)(1) and the date the claim was filed was unintentional (the Director may require additional information where there is a question whether the delay was unintentional); and
- (5) the above-identified nonprovisional application must be filed within 12 months of the filing date of the foreign application.

This application is a continuation of PCT/KR2005/04682 filed on December 30, 2005, which is after November 29, 2000 and within 12 months of December 20, 2004 (the filing date of the foreign application to which benefit is now being claimed). On September 28, 2010, an executed oath/declaration was received which identifies the foreign application for which priority is claimed by application number, country and filing date. The required petition fee of \$1410.00 was received with the petition. Lastly, petitioner has provided an adequate statement of unintentional delay.

All of the requirements being met, the petition under 37 CFR 1.55(c) to accept an unintentionally delayed claim for benefit of priority under 35 U.S.C. § 119(a)-(d) to the prior-filed foreign application is **GRANTED**.

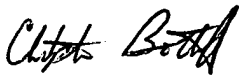
The granting of the petition to accept the delayed benefit claim to the prior-filed applications under 37 CFR 1.78(a)(3) and 37 CFR 1.55(c) should not be construed as meaning that this application is entitled to the benefit of the prior-filed applications. In order for this application to be entitled to the benefit of the prior-filed applications, all other requirements under 35 U.S.C. §§ 120 and 365(c) and 37 CFR 1.78(a)(1) and (a)(2) and 35 § U.S.C. 119(a)-(d) and 37 CFR 1.55(a)(1) must be met. Similarly, the fact that the corrected Filing Receipt accompanying this decision on petition includes the prior-filed applications should not be construed as meaning that applicant is entitled to the claim for benefit of priority to the prior-filed applications noted thereon. Accordingly, the examiner will, in due course, consider this

benefit claim and determine whether this application is entitled to the benefit of the earlier filing date.

A corrected Filing Receipt, which includes the priority claim to the prior-filed applications, accompanies this decision on petition.

Any inquiries concerning this decision may be directed to Jose' G Dees at (571) 272-1569. All other inquiries concerning either the examination procedures or status of the application should be directed to the Technology Center.

This application is being referred Technology Center Art Unit 1656 for consideration by the examiner of applicant's entitlement to claim benefit of priority under 35 U.S.C. §§ 120, 365(c) and 35 U.S.C. § 119(a)-(d) to the prior-filed applications.



Christopher Bottorff
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/436,377	05/18/2006	1656	1150	DBLC 1038310	46	1

CONFIRMATION NO. 7195

CORRECTED FILING RECEIPT



OC000000046815115

20529
THE NATH LAW GROUP
112 South West Street
Alexandria, VA 22314

Date Mailed: 04/05/2011

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Hong Mo Moon, Englewood Cliffs, NJ;
Jung Sun Yum, Bundang, KOREA, REPUBLIC OF;
Byung Cheol Ahn, Bundang, KOREA, REPUBLIC OF;
Joo Youn Lee, Bundang, KOREA, REPUBLIC OF;

Assignment For Published Patent Application

Dobeel Corporation, Jungwon-gu, KOREA, REPUBLIC OF

Power of Attorney: The patent practitioners associated with Customer Number 20529

Domestic Priority data as claimed by applicant

This application is a CON of PCT/KR05/04682 12/30/2005

Foreign Applications (You may be eligible to benefit from the **Patent Prosecution Highway** program at the USPTO. Please see <http://www.uspto.gov> for more information.)
REPUBLIC OF KOREA 10-2004-0117100 12/30/2004

If Required, Foreign Filing License Granted: 06/08/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/436,377**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

**** SMALL ENTITY ****

Title

Spray-dried collectin compositions and process for preparing the same

Preliminary Class

530

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where the conditions for issuance of a license have been met, regardless of whether or not a license may be required as

set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

Paper No.: _____

DATE : November 12, 2010

TO SPE OF : ART UNIT 1762

SUBJECT : Request for Certificate of Correction for Appl. No.: 11436628 Patent No.: 7709558

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D40-C
Palm Location 7580

Certificates of Correction Branch
703-756-1573

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not** apply.

☒ **Denied**

State the reasons for denial below.

Comments: The certified copy of priority document is
not of record.

 D. Wu
SPE

 1762
Art Unit



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King & Partners, PLC
170 College Avenue
SUITE 230
HOLLAND MI 49423

MAILED

SEP 27 2010

OFFICE OF PETITIONS

In re Application of
David Paul McCarty
Application No. 11/436,741
Filed: May 18, 2006
Attorney Docket No. **MCC-061005**

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed September 1, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to timely file a reply within the meaning of 37 CFR 1.113 to the final Office action of November 17, 2009. The proposed reply required for consideration of a petition to revive must be a Notice of Appeal (and appeal fee required by 37 CFR 41.20(b)(2), an amendment that *prima facie* places the application in condition for allowance, a Request for Continued Examination and submission (37 CFR 1.114), or the filing of a continuing application under 37 CFR 1.53(b). See MPEP 711.03(c)(III)(A)(2). A two (2) months extension of time pursuant to the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the date of abandonment of this application is April 18, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405, and the submission required by 37 CFR 1.114; (2) the petition fee of \$810; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-4584.

This application is being referred to Technology Center AU 3673 for processing of the RCE and for appropriate action by the Examiner in the normal course of business on the amendment submitted in accordance with 37 CFR 1.114.

/JoAnne Burke/
JoAnne Burke
Petitions Examiner
Office of Petitions



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P.O. BOX 710
LINDEN NJ 07036

MAILED

MAR 21 2011

In re Application of :
Shaw et al :
Application No. 11/436,779 :
Filed: July 10, 2006 :
Attorney Docket No. 2005M010 :
For: LUBRICATING OIL COMPOSITIONS :

OFFICE OF PETITIONS

ON PETITION

This is a decision on the petition, filed February 15, 2011, under 37 CFR 1.137(b) to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to timely submit a reply within three (3) months of the mailing of the July 13, 2010 non-final Office action. No response being received and no extensions of time being obtained under the provisions of 37 CFR 1.136(a), this application became abandoned on October 14, 2010. The filing of the present petition precedes the mailing of a Notice of Abandonment.

Applicants have submitted an amendment in reply to the July 13, 2010 non-final Office action, an acceptable statement of the unintentional nature of the delay in responding to the July 13, 2010 non-final Office action, and the \$1620.00 petition fee.

All of the requirements under 37 CFR 1.137(b) being met, the petition is granted.

After the mailing of this decision, the application will be returned to Technology Center AU 1771 for consideration of the amendment filed on February 15, 2011.

Telephone inquiries should be directed to the undersigned at (571) 272-3230.

Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/436,926	05/15/2006	Giovanni Leo	4043.05US03	8068
24113 7590 01/03/2011 PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A. 4800 IDS CENTER 80 SOUTH 8TH STREET MINNEAPOLIS, MN 55402-2100			EXAMINER HOEKSTRA, JEFFREY GERBEN	
			ART UNIT 3736	PAPER NUMBER
			MAIL DATE 01/03/2011	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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PATTERSON THUENTE CHRISTENSEN PEDERSEN, P.A.
4800 IDS CENTER
80 SOUTH 8TH STREET
MINNEAPOLIS MN 55402-2100

In re Application of:
LEO, GIOVANNI et al
Serial No. 11/436,926
Filed: May 15, 2006
Docket: 4043.05US03

Title: MEDICAL APPARATUS SYSTEM
HAVING OPTICAL FIBER LOAD
SENSING CAPABILITY

DECISION ON PETITION
UNDER 37 CFR 1.59

This is a decision on the petition filed December 16, 2010 requesting expunge of documents relating to the unintentionally filed NPL documents (total of 218 pages) which are intended for SN 12/127,657. In the petition, petitioner requests expunge of the documents as filed on November 10, 2010 and designated under NPL documents because the listed documents were unintentionally filed. The NPL documents filed on November 10, 2010 includes IDS (Forms 1449) listing a number of patents or patent publication and PCT search reports (218 pages total).

The petition is **granted**.

The USPTO does not remove any papers filed in an application. However, since the applicant has unintentionally filed the wrong documents on November 10, 2010, the documents have been blocked from public view in the Public Pair system.

Any inquiry regarding this decision should be directed to Henry C. Yuen, Special Programs Examiner, at (571) 272-4856.

PETITION GRANTED

Angela D. Sykes, Director
Technology Center 3700



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Ralph C. Francis
Francis Law Group
1942 Embarcasero
Oakland CA 94606

MAILED

OCT 06 2011

In re Application of	:	OFFICE OF PETITIONS
Eleanor Schuler et al.	:	
Application No. 11/437,096	:	DECISION ON PETITION
Filed: May 19, 2006	:	
Attorney Docket No. SCM-02-009C	:	

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 15, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to properly reply in a timely manner to the final Office action mailed, September 21, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on December 22, 2010. A Notice of Abandonment was mailed on March 24, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a RCE (Request for Continued Examination, with the required fee of \$405, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay. Accordingly, the RCE is accepted as being unintentionally delayed.

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 3762 for appropriate action by the Examiner in the normal course of business on the reply received June 15, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions

cc: Kermit D. Lopez
Ortiz & Lopez, PLLC
P.O. Box 4484
Albuquerque, NM 87196-4484



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SOLAE, LLC
4300 DUNCAN AVENUE
LEGAL DEPARTMENT E4
ST LOUIS, MO 63110

MAILED

FEB 18 2011

OFFICE OF PETITIONS

In re Application of :
Matthew K. McMIndes, et al. :
Application No. 11/437,164 : **DECISION GRANTING PETITION**
Filed: May 19, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. SP-1455 US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed February 16, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 7, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

The petition is not signed by an attorney of record. Nevertheless, in accordance with 37 CFR 1.34, the signature of Mr. J. Jason Galvez appearing on the correspondence shall constitute a representation to the United States Patent and Trademark Office that he is authorized to represent the particular party on whose behalf he acts. If Mr. Galvez desires to receive future correspondence regarding this file, the appropriate power of attorney documents must be submitted. All future correspondence regarding this application file will be directed solely to the above-noted correspondence address of record.

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B - Fee(s) Transmittal Form (along with any balance due at the time of submission). **Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.**

This application is being referred to Technology Center AU 1781 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions



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SEP 15 2011

OFFICE OF PETITIONS

In re Application of :
Matthew K. McMIndes et al :
Application No. 11/437,164 : **DECISION GRANTING PETITION**
Filed: May 19, 2006 : **UNDER 37 CFR 1.313(c)(2)**
Attorney Docket No. SP-1455 US :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed, September 13, 2011 to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). *See* 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 16, 2011 in the above-identified application cannot be refunded. If, however, the above-identified application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.

Telephone inquiries should be directed to Irvin Dingle at (571) 272-3210.

This matter is being referred to Technology Center AU 1781 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement.

/Irvin Dingle/
Irvin Dingle
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Issue Fee Transmittal Form PTOL-85(b), which includes the following language thereon: Commissioner for Patents is requested to apply the Issue Fee and Publication Fee (if any) or re-apply any previously paid issue fee to the application identified above. Petitioner is advised that, whether a fee is indicated as being due or not, the Issue Fee Transmittal Form **must** be completed and timely submitted to avoid abandonment. Note the language in bold text on the first page of the Notice of Allowance and Fee(s) Due (PTOL-85).



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MARGARET ANDERSON
106 E. 6TH STREET, SUITE 900
AUSTIN TX 78701

MAILED

MAR 02 2011

OFFICE OF PETITIONS

In re Application of	:	
Levien et al.	:	DECISION ON PETITION
Application No. 11/437,284	:	TO WITHDRAW
Filed: May 19, 2006	:	FROM RECORD
Attorney Docket No. QQ1-0032US	:	

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed January 24, 2011.

The request is **NOT APPROVED**.

The Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *who properly became of record under 37 CFR 3.71*, or, if no assignee of the entire interest has properly been made of record, the most current address information provided for the first named inventor. 37 CFR 3.71(c) states:

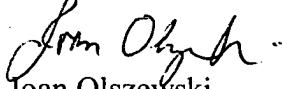
An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

According to a review of current USPTO records petitioner has not requested the address be changed to a properly recorded assignee or the first listed inventor. The Customer Number 55922 is neither the first named inventor nor the assignee who properly became of record under 37 CFR 3.71. As such, all future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Further, the address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Currently, there is no outstanding Office action that requires a reply.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

A handwritten signature in black ink, appearing to read "Joan Olszewski".

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: LEE & HAYES, PLLC
601 W RIVERSIDE
SUITE 1400
SPOKANE, WA 99201



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COMPUTER PATENT ANNUITIES
225 REINEKERS LANE
SUITE 400
ALEXANDRIA VA 22314

MAILED

DEC 02 2010

OFFICE OF PETITIONS

In re Patent No. 7,765,080 :
Issue Date: July 27, 2010 :
Application No. 11/437,343 :
Filed: May 19, 2006 :
Attorney Docket No. P186390.US.02 (469052- :
33) :

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

Inquiries related to this communication should be directed to Diane Goodwyn at (571) 272-6735.

Thurman K. Page
Petitions Examiner
Office of Petitions



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500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

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APR 07 2011
OFFICE OF PETITIONS

In re Patent No.7,818,540	:	
Barlow, et al.	:	DECISION FOR REQUEST
Issue Date : October 19, 2010	:	FOR RECONSIDERATION
Application No. 11/437,385	:	OF PATENT TERM
Filed: May 19, 2006	:	ADJUSTMENT
Attorney Docket No. 16649US02	:	

This is a decision on the "Application for Reconsideration of the Patent Term Adjustment under 35 U.S.C. § 154(b) Indicated in the Patent (37 CFR 1.705(d)," filed December 17, 2010. Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from one hundred and fifty-three (153) days to one hundred and ninety-three (193) days.

The request for reconsideration of the patent term adjustment under 37 CFR 1.705(d) is **DISMISSED**.

Patentee's are given ONE (1) MONTH from the mail date of this decision to respond. No extension of time will be granted under 37 CFR 1.136.

On October 19, 2010, the above-identified application matured into U.S. Patent No. 7,818,540 with a revised patent term of 153 days. The instant petition under 37 CFR 1.705(d) was filed within two months of the issuance of the patent and is timely.

Patentees assert that the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) of 40 days for the filing of a formal drawings on September 10, 2010 is improper. Patentees further assert that even were the reduction proper, the USPTO calculation of the number of days of reduction to the patent term adjustment is incorrect.

Patentees' argument as to the reduction of the patent term adjustment of 40 days has been considered and is not persuasive. A review of the application reveals that a reduction of the patent term adjustment of 40 days was entered for the filing of formal drawings on September 10, 2010, after the mailing of the Notice of Allowance and Issue Fee Due was mailed on June 10,

2010. Such a paper is not identified as one of the papers¹ the filing of which the Director has specifically deemed not be a "failure to engage in reasonable efforts" within the meaning of 37 CFR 1.704(c)(10)2. In fact, it is noted that the Director in "*Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001)" states, in pertinent part, that:

...the submission of other papers after a "Notice of Allowance" is mailed that do cause substantial interference and delay in the patent issue process are considered a "failure to engage in reasonable efforts to conclude prosecution or examination of an application pursuant to 37 CFR 1.704(c)(10). The following are examples of such papers: (1) a request for refund, (2) a status letter, (3) amendment under 37 CFR 1.312, (4) late priority claims, (5) a certified copy of a priority document, (6) drawings, (7) letters related to biological deposits, and (8) oath or declarations.

Further, contrary to patentees' assertion, a response to the formal drawings was not mailed by USPTO is not dispositive. In fact, the filing of such formal drawings may have been material to the patentability of the invention claimed (a fact the Office could only determine by reviewing the documents filed) may have interfered with and delayed the patent issue process such that the filing of the formal drawings after the mailing of the notice of allowance constituted a "failure to engage in reasonable efforts to concluded processing of the application. Thus, reduction to

¹ It is noted that *Clarification of 37 CFR 1.704(c)(10) - Reduction of Patent Term Adjustment for Certain Types of Papers Filed After a Notice of Allowance has been Mailed*, 1247 Off. Gaz. Pat. Office 111 (June 26, 2001)states, in pertinent part, that:

... the Office is publishing this notice to provide guidance in interpreting the provisions of 37 CFR 1.704(c)(10) to clarify that submission of certain papers after a "Notice of Allowance," which do not cause substantial interference and delay in the patent issue process, are not considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application. The following are examples of such papers: (1) Issue Fee Transmittal (PTOL-85B), (2) Power of Attorney, (3) Power to Inspect, (4) Change of Address, (5) Change of Status (small/not small entity status), (6) a response to the examiner's reasons for allowance, and (7) letters related to government interests (e.g., those between NASA and the Office). Therefore, the submission of these papers after a Notice of Allowance will not be considered a "failure to engage in reasonable efforts" to conclude processing or examination of an application and would not result in reduction of a patent term adjustment pursuant to 37 CFR 1.704(c)(10).

2 37 CFR 1.704 (c)(10) provides that:

(c) Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the periods of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case he periods of adjustment set forth in § 1.703 shall be reduced by the lesser of:

(i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or other such paper; or

(ii) Four months...

patent term adjustment of 40 days³ pursuant to 37 CFR 1.704(c)(10) is proper and will not be removed.

Patentees' assertion that the Office miscalculated the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) is not persuasive. The period of reduction to the patent term adjustment under 37 CFR 1.704(c)(10) begins on, and includes, the date the paper was filed and ends on, and includes, the mailing date of any response to the paper or four months from the filing of the papers, which ever is earlier. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." *Id.* Thus, in this instance, the period of reduction to the patent term adjustment is 40 days.

Further, it is noted that 35 U.S.C. 154 authorizes the Director to establish the procedures for the application for and the determination of patent term adjustments. Those procedures include the calculation of the period of adjustment as set forth in 37 CFR 1.704(c)(10). 35 U.S.C. § 154(b)(3) provides that the USPTO shall: (1) prescribe regulations establishing procedures for the application for and determination of patent term adjustments under 35 U.S.C. § 154(b); (2) make a determination of any patent term adjustment under 35 U.S.C. § 154(b) and transmit a notice of that determination with the notice of allowance under 35 U.S.C. § 151; and (3) provide the applicant one opportunity to request reconsideration of any patent term adjustment determination. Pursuant to the mandate and authority in 35 U.S.C. § 154(b)(3), the USPTO promulgated 37 C.F.R. § 1.705, which provides that: (1) the notice of allowance will include notification of any patent term adjustment under 35 U.S.C. § 154(b)(37 C.F.R. § 1.705(a)); (2) any request for reconsideration of the patent term adjustment indicated in the notice of allowance (except as provided in 37 C.F.R. § 1.705(d)) must be by way of an application for patent term adjustment filed no later than the payment of the issue fee and accompanied by (inter alia) the fee set forth in 37 C.F.R. § 1.18(e)(37 C.F.R. § 1.705(b)); and (3) if the patent indicates or should have indicated a revised patent term adjustment, any request for reconsideration of the patent term adjustment indicated in the patent must be filed within two months of the date the patent issued.

As such, it is evident that 35 U.S.C. 154 gives the USPTO rulemaking authority relative to the determination of patent term adjustments and the authority to implement and interpret said rules. Accordingly, 37 CFR 1.704(c)(10) are interpreted to mean that the reduction to the patent term adjustment for filing an amendment under 37 CFR 1.312, or other paper after the mailing of the notice of allowance is the number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or other such paper; or four months.

Accordingly, the reduction to the patent term adjustment under 37 CFR 1.704(c)(10) for the filing of formal drawings on September 10, 2010, is 40 days and will not be removed.

³ It is noted that the Office did not mail a response to the formal drawings. Accordingly, the period of reduction began on September 10, 2010, and ended with the issuance of the patent on October 19, 2010.

In view thereof, the revised patent term adjustment is 153 days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

Further correspondence with respect to this decision should be addressed as follows:

By Mail: Mail Stop Petition
 Commissioner for Patents
 PO Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 ATTN: Office of Petitions

By Hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket Number: TI-39521	Patent Number: 7,667,349
Filing Date (or 371(b) or (f) Date): 05-17-2006	Issue Date: 02/23/2010
First Named Inventor: Bradley Lynn Nielsen	
Title: PROVIDING POWER TO A LOAD BY CONTROLLING A PLURALITY OF GENERATING DEVICES	

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature / Wade J. Brady III /	Date August 12, 2010
Name (Print/Typed) Wade J. Brady III	Registration Number 32,080
Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 1.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.	
<input checked="" type="checkbox"/> *Total of <u>1</u> forms are submitted.	

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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TEXAS INSTRUMENTS INCORPORATED
P O BOX 655474, M/S 3999
DALLAS, TX 75265

Mail Date: 08/17/2010

Applicant	: Bradley Lynn Nielsen	: DECISION ON REQUEST FOR
Patent Number	: 7667349	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/437,395	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/17/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **369** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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P.O. Box 1450
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In re Patent No. 7238096
Issue Date: July 3, 2007
Application No. 11437398
Filed: May 19, 2006
Attorney Docket No. AFAB01

:

:DECISION GRANTING PETITION
:UNDER 37 CFR 1.378(c)

:

This is a decision on the electronic petition, filed November 16, 2011, under 37 CFR 1.378(c) to accept the unintentionally delayed payment of the 3.5 year maintenance fee for the above-identified patent.

The petition is **GRANTED**.

The maintenance fee is accepted, and the above-identified patent reinstated as of November 16, 2011. This decision also constitutes notice that the fee has been accepted. An electronic copy of the petition and this decision has been created as an entry in the Image File Wrapper. Nevertheless, petitioner should print and retain an independent copy.

Telephone inquiries related to this electronic decision should be directed to the Electronic Business Center at 1-866-217-9197.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

PETITION TO ACCEPT UNINTENTIONALLY DELAYED PAYMENT OF MAINTENANCE FEE IN AN EXPIRED PATENT (37 CFR 1.378(c))

Patent Number	Issue Date (YYYY-MM-DD)	Application Number	Filing Date (YYYY-MM-DD)	Docket Number (if applicable)
7238096	2007-07-03	11437398	2006-05-19	AFAB.001

CAUTION: Maintenance fee (and surcharge, if any) payment must correctly identify: (1) the patent number and (2) the application number of the actual U.S. application leading to issuance of that patent to ensure the fee(s) is/are associated with the correct patent. 37 CFR 1.366(c) and (d).

SMALL ENTITY

☒ Patentee claims, or has previously claimed, small entity status. See 37 CFR 1.27.

LOSS OF ENTITLEMENT TO SMALL ENTITY STATUS

☐ Patentee is no longer entitled to small entity status. See 37 CFR 1.27(g)

NOT Small Entity

- | | Fee | Code |
|-----------------------|-----------|--------|
| <input type="radio"/> | 3 ½ year | (1551) |
| <input type="radio"/> | 7 ½ year | (1552) |
| <input type="radio"/> | 11 ½ year | (1553) |

Small Entity

- | | Fee | Code |
|----------------------------------|-----------|--------|
| <input checked="" type="radio"/> | 3 ½ year | (2551) |
| <input type="radio"/> | 7 ½ year | (2552) |
| <input type="radio"/> | 11 ½ year | (2553) |

SURCHARGE

The surcharge required by 37 CFR 1.20(i)(2) (Fee Code 1558) must be paid as a condition of accepting unintentionally delayed payment of the maintenance fee.

MAINTENANCE FEE (37 CFR 1.20(e)-(g))

The appropriate maintenance fee must be submitted with this petition.

STATEMENT

THE UNDERSIGNED CERTIFIES THAT THE DELAY IN PAYMENT OF THE MAINTENANCE FEE TO THIS PATENT WAS UNINTENTIONAL

PETITIONER(S) REQUEST THAT THE DELAYED PAYMENT OF THE MAINTENANCE FEE BE ACCEPTED AND THE PATENT REINSTATED

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

37 CFR 1.378(d) states: "Any petition under this section must be signed by an attorney or agent registered to practice before the Patent and Trademark Office, or by the patentee, the assignee, or other party in interest."

I certify, in accordance with 37 CFR 1.4(d)(4) that I am

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office
- ☐ A sole patentee
- ☐ A joint patentee; I certify that I am authorized to sign this submission on behalf of all the other patentees.
- ☐ A joint patentee; all of whom are signing this e-petition
- ☒ The assignee of record of the entire interest

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays valid OMB control number.

The Assignee of record of the entire interest			
Under 37 CFR 3.71 an assignee becomes of record by filing a statement in compliance with 37 CFR 3.73(b). Signature requirements are set forth in 37 CFR 1.4(d), and the undersigned certifies that he / she is empowered to act on behalf of the assignee of the entire interest			
Signature	/william s. scott/		Date (YYYY-MM-DD) 2011-11-16
Name	Vice President, AFAB Innovations, Inc.		
Enter Reel and Frame Number		Remove	
Reel Number	017920	Frame Number	0117
Click ADD for additional Reel Number and Frame Number		Add	
<p>This collection of information is required by 37 CFR 1.378(c). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. This form can only be used when in conjunction with EFS-Web. If this form is mailed to the USPTO, it may cause delays in reinstating the patent.</p>			

Privacy Act Statement

The Privacy Act of 1974 (P.L. 93-579) requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether the Freedom of Information Act requires disclosure of these records.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (i.e., GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspections or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/437,420	05/18/2006	Prashant Dubey	05-IND-052 (852463.423)	9021

30423	7590	06/08/2011
STMICROELECTRONICS, INC.		
MAIL STATION 2346		
750 CANYON DRIVE, SUITE 300		
COPPELL, TX 75019		

EXAMINER	
NGUYEN, STEVE N	

ART UNIT	PAPER NUMBER
2117	

NOTIFICATION DATE	DELIVERY MODE
06/08/2011	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

angie.rodriguez@st.com
ip.us@st.com

MAILED

JUN 06 2011

Technology Center 2100



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750 CANYON DRIVE, SUITE 300
COPPELL, TX 75019

In re Application of: Prashant DUBEY)
Application No. 11/437,420) DECISION ON PETITION FOR
Attorney Docket No. 05-IND-052) SUPERVISORY REVIEW
(852463.423)) UNDER 37 CFR §1.181
Filed: 05/18/2006)
For: AREA EFFICIENT MEMORY)
ARCHITECTURE WITH DECODER SELF)
TEST AND DEBUG CAPABILITY)

This is in response to the petition filed on April 18, 2011, under 37 CFR §1.181, requesting supervisory review of the examiner's answer to designate statement set forth in examiner's answer as a new ground of rejection in accordance with M.P.E.P. § 1207.03 IV.

A petition under 37 CFR §1.181 must include: (1) a statement of facts involved and (2) the point or points to be reviewed and the action requested. Note, the mere filing of a petition will not stay any period for reply that may be running against the application, nor act as a stay of other proceedings. Any petition under this part not filed within two months of the mailing date of the action or notice from which relief is requested may be dismissed as untimely. In addition, when a petition is taken from an action or requirement of an examiner in the ex parte prosecution of an application, ... it may be required that there have been a proper request for reconsideration (§ 1.111) and a repeated action by the examiner.

The petition filed on April 18, 2011 includes elements (1) and (2) above and was filed within two months of the action (Examiner's Answer) from which relief is requested.

The petition is **GRANTED**.

Applicable Prosecution History

July 23, 2010 Final Rejection mailed. All pending claims were rejected under prior art. No other applicable rejections were presented.

September 23, 2010 After Final amendment and remarks filed

September 28, 2010 Advisory Action mailed

November 25, 2010 Notice of Appeal and Change of Correspondence Address filed

December 27, 2010 Appeal Brief filed

February 17, 2011 Examiner's Answer mailed. Pending claims were rejected on the same grounds as in the final Office action mailed July 23, 2010.

April 18, 2011 Instant petition filed, requesting correction of Examiner's Answer

RELIEF REQUESTED

The instant petition filed under 37 CFR 1.181 requests the following relief: to designate examiner's statement set forth in examiner's answer as a new ground of rejection, and to reopen prosecution in this application.

ANALYSIS

The relevant sections of the M.P.E.P. are set forth below:

M.P.E.P. § 1207.03 sets forth in part:

37 CFR 41.39(a)(2) permits the entry of a new ground of rejection in an examiner's answer mailed on or after September 13, 2004. New grounds of rejection in an examiner's answer are envisioned to be rare, rather than a routine occurrence. At the time of preparing the answer to an appeal brief, the examiner may decide that he or she should apply a new ground of rejection against some or all of the appealed claims. In such an instance where a new ground of rejection is necessary, the examiner should either reopen prosecution or set forth the new ground of rejection in the answer.

M.P.E.P. § 1207.03 I sets forth in part:

I. REQUIREMENTS FOR A NEW GROUND OF REJECTION

Any new ground of rejection made by an examiner in an answer must be:

- (A) approved by a Technology Center (TC) Director or designee; and
- (B) prominently identified in the "Grounds of Rejection to be Reviewed on Appeal" section and the "Grounds of Rejection" section of the answer (see MPEP § 1207.02). The examiner may use form paragraph 12.154.04.

The examiner's answer must provide appellant a two-month time period for reply. The examiner may use form paragraph 12.179.01 to notify appellant of the period for reply and to include the approval of the TC Director or designee. In response to an examiner's answer that contains a new ground of rejection, appellant must either file:

- (A) a reply in compliance with 37 CFR 1.111 to request that prosecution be reopened; or
- (B) a reply brief that addresses each new ground of rejection in compliance with 37 CFR 41.37(c)(1)(vii) to maintain the appeal.

37 CFR § 41.39 sets forth the following:

(a)

(1) The primary examiner may, within such time as may be directed by the Director, furnish a written answer to the appeal brief including such explanation of the invention claimed and of the references relied upon and grounds of rejection as may be necessary, supplying a copy to appellant. If the primary examiner determines that the appeal does not comply with the provisions of §§ 41.31 and 41.37 or does not relate to an appealable action, the primary examiner shall make such determination of record.

(2) An examiner's answer may include a new ground of rejection.

(b) If an examiner's answer contains a rejection designated as a new ground of rejection, appellant must within two months from the date of the examiner's answer exercise one of the following two options to avoid sua sponte dismissal of the appeal as to the claims subject to the new ground of rejection:

(I) Reopen prosecution. Request that prosecution be reopened before the primary examiner by filing a reply under § 1.111 of this title *with or without amendment* or submission of affidavits (§ 1.130, 1.131 or 1.132 of this title) or other evidence. *Any amendment or submission of affidavits or other evidence must be relevant to the new ground of rejection.* A request that complies with this paragraph will be entered and the application or the patent under ex parte reexamination will be reconsidered by the examiner under the provisions of § 1.112 of this title.

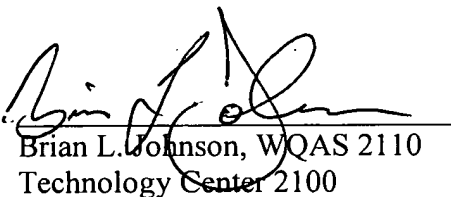
Petitioner sets forth the following point: that the examiner's answer does not designate the statement (quoted in the petition, located in the examiner's answer on page 15, paragraphs 5-6 thereof), as a new ground of rejection.

A review of the Examiner's Answer reveals that *although* the basic thrust of the prior art rejection remains the same as that set forth in the final rejection (i.e. claims 1-6, 9-11 and 26-27 rejected under 35 USC 103(a) as being unpatentable over Kawai et al. (U.S. Pat. 6,912,166) in view of Ishii et al. (U.S. Pat. 5,331,644) and further in view of Chu et al. (U.S. Pat. 3,995,215) and Wakayama et al. (U.S. Pat. 6,064,244)), it is agreed that the Examiner's assertion in the Examiner's Answer (page 15, para's 5-6) that the claim 1 recitation of a ring counter formed from "memory cells in the memory core" **is not supported in the original disclosure**, is tantamount to a rejection under 35 USC § 112 rejection, first paragraph. As no such rejection, in accordance with the Examiner's remarks appears in the prosecution record, reopening of prosecution in order to clarify and complete the record appears to be appropriate, in accordance with Petitioner's request.

CONCLUSION

Accordingly, the *petition* is **GRANTED**, for the reasons stated above. Prosecution is hereby reopened. The application is being forwarded to the Tech. Support Staff for *processing* of the amendment filed on April 18, 2011 and then to the Examiner for prompt consideration of the amendment and response filed April 18, 2011, in accordance with 37 CFR § 41.39 and this decision.

Any inquiries related to this decision may be directed to Quality Assurance Specialist Brian Johnson at (571) 272-3595.



Brian L. Johnson, WQAS 2110
Technology Center 2100

Computer Architecture and Software



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QUALCOMM INCORPORATED
5775 MOREHOUSE DR
SAN DIEGO CA 92121

MAILED

NOV 09 2010

OFFICE OF PETITIONS

In re Patent No. 7,673,102	: DECISION ON
Muhammad Ahmed	: REQUEST FOR RECONSIDERATION
Application No. 11/437,501	: of PATENT TERM ADJUSTMENT
Issue Date: March 2, 2010	: and
Filed: May 17, 2006	: NOTICE OF INTENT TO ISSUE
Attorney Docket No. 051319	: CERTIFICATE OF CORRECTION

This is a decision on the "REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(d)", filed May 3, 2010, requesting that the patent term adjustment indicated on the above-identified patent be corrected from two hundred one (201) days to two hundred ninety-one (291) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED**.

On March 2, 2010, the instant application matured into U.S. Patent No. 7,673,102 with a patent term adjustment of two hundred one (201) days. Patentees filed the instant application for patent term adjustment on May 3, 2010 (May 2, 2010 fell on a Sunday). The Office determined a patent term adjustment of 201 days based upon 428 days of Office delay pursuant to 37 CFR 1.703(a)(1) and 108 days pursuant to 37 CFR 1.703(a)(6), reduced by 30 days and 91 days of Applicant delay pursuant to 37 CFR 1.704(b), and 214 days pursuant to 37 CFR 1.704(c)(3). The adjustment of 91 days is at issue.

A review of the file reveals that Applicants were twice assessed delay for the abandonment of the application. The Office mailed a Notice of Allowance on January 4, 2009. No issue fee having been timely received, the application became abandoned on April 5, 2009. Applicants filed the issue fee, together with a petition to revive, on July 14, 2009. The petition was granted in a decision mailed on November 24, 2009. Applicant was assessed 91 days of delay for filing the issue fee pursuant to 37 CFR 1.704(b), and was also assessed 214 days of delay due to the

abandonment of the application pursuant to 37 CFR 1.704(c)(3). However, as set forth in 37 CFR 1.704(c), applicant delay in this situation should be assessed only to the extent that the periods of delay are not overlapping. As the overlap equals 90 days (April 15, 2009 to July 14, 2009), these days should be removed from applicant delay.

In view thereof, the correct number of days of patent term adjustment is two hundred ninety-one (291) days (536 (428+108) days of PTO delay, reduced by 245 (30+1+214) days of Applicant delay).

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged.

The application is being forwarded to the Certificate of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **two hundred ninety-one (291) days**.

Telephone inquiries specific to this matter should be directed to Petitions Attorney Cliff Congo, at (571) 272-3207.



Anthony Knight
Director
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
DRAFT CERTIFICATE OF CORRECTION

PATENT : 7,673,102 B2

DATED : March 2, 2010

INVENTOR(S) : Ahmed et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 201 days.

Delete the phrase “by 201 days” and insert – by 291 days--



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MICHAEL BEST & FRIEDRICH LLP
100 E WISCONSIN AVENUE
SUITE 3300
MILWAUKEE, WI 53202

MAILED
JUL 20 2011
OFFICE OF PETITIONS

In re Patent No. 7,817,830 :
Issue Date: October 19, 2010 :
Application No. 11/437,523 :
Filed: May 20, 2006 :
Attorney Docket No. 026212-9002-US00 :

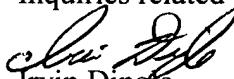
NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

Inquiries related to this communication should be directed to Irvin Dingle at (571) 272-3210.


Irvin Dingle
Petitions Examiner
Office of Petitions



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**Bridgelux, Inc. c/o Novak
Druce + Quigg LLP
1000 Louisiana Street,
Fifty- Third Floor
Houston TX 77002**

MAILED

JAN 10 2011

OFFICE OF PETITIONS

In re Patent No. 7,573,074 :
Issue Date: August 11, 2009 :
Application No. 11/437,570 : **NOTICE**
Filed: May 19, 2006 :
Attorney Docket No. 20079.0004.NPUS00 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 29, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc. 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).**

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989).** Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED.**

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The fee deficiency payment of \$755 will be charged to petitioner's deposit account,

The application file does not indicate a change of address has been filed in this case, although the address given on the petition differs from the address of record. A change of address should be filed in this case in accordance with MPEP 601.03. A courtesy copy of this decision is being mailed to the address noted on the petition. However, until otherwise instructed, all future correspondence regarding this application will be mailed solely to the address of record.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Michael S. Garrabrants
Novak Druce & Quigg, LLP
555 Mission Street, 34th Street
San Francisco, CA 94105



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SQUIRE, SANDERS & DEMPSEY LLP
1 MARITIME PLAZA
SUITE 300
SAN FRANCISCO, CA 94111

Mail Date: 08/02/2010

Applicant	: Jason Van Sciver	: DECISION ON REQUEST FOR
Patent Number	: 7648725	: RECALCULATION of PATENT
Issue Date	: 01/19/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/437,589	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/19/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.


The patent term adjustment has been determined to be **851** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

Issue Classification 	Application/Control No.	Applicant(s)/Patent under Reexamination	
	11/437,607	CHOU ET AL.	
	Examiner	Art Unit	
	FRANK W. LU	1634	

ISSUE CLASSIFICATION											
ORIGINAL					CROSS REFERENCE(S)						
CLASS		SUBCLASS			CLASS	SUBCLASS (ONE SUBCLASS PER BLOCK)					
435		6			435	91.1	91.2	91.51	287.2		
INTERNATIONAL CLASSIFICATION					536	23.1	24.3	24.33			
C	1	2	Q	1/68							
C	1	2	P	19/34							
C	1	2	M	1/34							
C	0	7	H	21/02							
C	0	7	H	21/04							
(Assistant Examiner) (Date)					/Frank W Lu/ 2/11/2011 (Primary Examiner) (Date)					Total Claims Allowed: 16	
(Legal Instruments Examiner) (Date)										O.G. Print Claim(s) 1	O.G. Print Fig. None

<input type="checkbox"/> Claims renumbered in the same order as presented by applicant				<input type="checkbox"/> CPA				<input type="checkbox"/> T.D.				<input type="checkbox"/> R.1.47			
Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original	Final	Original
			31		61		91		121		151		181		
			32		62		92		122		152		182		
			33		63		93		123		153		183		
			34		64		94		124		154		184		
		1	35		65		95		125		155		185		
			36		66		96		126		156		186		
		2	37		67		97		127		157		187		
		3	38		68		98		128		158		188		
		4	39		69		99		129		159		189		
		5	40		70		100		130		160		190		
		7	41		71		101		131		161		191		
		8	42		72		102		132		162		192		
		11	43		73		103		133		163		193		
			44		74		104		134		164		194		
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			46		76		106		136		166		196		
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			50		80		110		140		170		200		
			51		81		111		141		171		201		
			52		82		112		142		172		202		
			53		83		113		143		173		203		
			54		84		114		144		174		204		
		10	55		85		115		145		175		205		
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		14	57		87		117		147		177		207		
		15	58		88		118		148		178		208		
			59		89		119		149		179		209		
		16	60		90		120		150		180		210		



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DENNISON ASSOCIATES
133 RICHMOND STREET WEST
SUITE 301
TORONTO ON M5H 2L7 CA CANADA

MAILED
SEP 06 2011
OFFICE OF PETITIONS

In re Application of :
Snow, et al. :
Application No. 11/437,792 : ON PETITION
Filed: May 22, 2006 :
Attorney Docket No. WH-10 685.1US :

This is in response to the petition to revive an unintentionally abandoned application under 37 CFR 1.137(b), filed June 10, 2011.

The petition under 37 CFR 1.137(b) is GRANTED.

The above-identified application became abandoned for failure to timely file a proper reply to the final Office action mailed June 8, 2010. Applicants filed an Amendment on October 8, 2010, made timely by obtaining a two month extension of time. However, the Amendment did not place the application in condition for allowance. As such, the application became abandoned on October 9, 2010. The Office mailed a Notice of Abandonment on March 24, 2011.

With the instant petition, petitioner paid the petition fee, made the proper statement of unintentional delay, and submitted the required reply in the form of a Request for Continued Examination.

Application No. 11/437,792

Page 2

The application is being forwarded to Group Art Unit 3693 for consideration of the RCE, filed June 10, 2011.

Telephone inquiries concerning this decision may be directed to the undersigned at 571-272-3207.

A handwritten signature in cursive script, appearing to read "Cliff Congo".

Cliff Congo
Petitions Attorney
Office of Petitions



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December 12, 2011

EASTMAN KODAK COMPANY
PATENT LEGAL STAFF
343 STATE STREET
ROCHESTER NY 14650-2201

In re Application of	:	
MORGAN, JASON et al	:	DECISION ON PETITION
Application No. 11/437,796	:	
Filed: 05/19/2006	:	ACCEPTANCE OF COLOR
Attorney Docket No. 91664DPS	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) September 29, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, and
3. The specification containing the following language as the first paragraph in that portion of the specification relating to the brief description of the drawings.

"The file of this patent contains at least one drawing executed in color. Copies of this patent with color drawing(s) will be provided by the Patent and Trademark Office upon request and payment of the necessary fee."

Note: Only one set of drawings is required when petition is filed via EFS WEB.

The petition was accompanied by all of the requirements above. Therefore, the petition is **GRANTED**.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Diane Terry/
Quality Control Specialist
Office of Data Management
Publications Branch



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222 EAST 41ST ST
NEW YORK NY 10017

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SEP 22 2010

OFFICE OF PETITIONS

In re Application of Cumpston et al.	:	
Application No. 11/437,928	:	Decision on Petition
Filing Date: May 19, 2006	:	
Attorney Docket No. 11653-014-999	:	

This is a decision on the petition filed May 6, 2010, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant non-provisional application for failure to timely notify the U.S. Patent and Trademark (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the instant nonprovisional application is the subject of an application filed in an eighteen-month publication country on May 6, 2010. However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in an eighteen-month publication country. As a result, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition to revive an application abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to notify the USPTO of a foreign filing must be accompanied by:

- (1) the required reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required reply from the due date of the reply until the filing of a grantable petition was unintentional.

The instant petition has been found to be in compliance with the above statute and 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date of December 30, 2010, accompanies this decision on petition.

Technology Center Art Unit 1795 will be informed of the instant decision and the application will be further examined in due course.

Telephone inquiries regarding this communication should be directed to Petitions Attorney Steven Brantley at (571) 272-3203.

A handwritten signature in black ink, appearing to read 'C. S. Brantley', is positioned above the printed name.

Charles Steven Brantley
Senior Petitions Attorney
Office of Petitions

ATTACHMENT: Notice Regarding Rescission of Nonpublication Request



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
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APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
11/437,928	05/19/2006	Brian H. Cumpston	11653-014-999 (596353-999)

CONFIRMATION NO. 2229

20583
JONES DAY
222 EAST 41ST ST
NEW YORK, NY 10017

NONPUBLICATION RESCISSION
LETTER



OC00000043574430

Date Mailed: 09/17/2010

**Communication Regarding Rescission Of
Nonpublication Request and/or Notice of Foreign Filing**

Applicant's rescission of the previously-filed nonpublication request and/or notice of foreign filing is acknowledged. The paper has been reflected in the Patent and Trademark Office's (USPTO's) computer records so that the earliest possible projected publication date can be assigned.

The projected publication date is 12/30/2010.

If applicant rescinded the nonpublication request before or on the date of "foreign filing,"¹ then no notice of foreign filing is required.

If applicant foreign filed the application after filing the above application and before filing the rescission, and the rescission did not also include a notice of foreign filing, then a notice of foreign filing (not merely a rescission) is required to be filed within 45 days of the date of foreign filing. See 35 U.S.C. § 122(b)(2)(B)(iii), and Clarification of the United States Patent and Trademark Office's Interpretation of the Provisions of 35 U.S.C. § 122(b)(2)(B)(ii)-(iv), 1272 Off. Gaz. Pat. Office 22 (July 1, 2003).

If a notice of foreign filing is required and is not filed within 45 days of the date of foreign filing, then the application becomes abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii). In this situation, applicant should either file a petition to revive or notify the Office that the application is abandoned. See 37 CFR 1.137(f). Any such petition to revive will be forwarded to the Office of Petitions for a decision. Note that the filing of the petition will not operate to stay any period of reply that may be running against the application.

Questions regarding petitions to revive should be directed to the Office of Petitions at (571) 272-3282.

¹ Note, for purpose of this notice, that "foreign filing" means "filing an application directed to the same invention in another country, or under a multilateral international agreement, that requires publication of applications 18 months after filing".

/scbrantley/

Office of Data Management, Application Assistance Unit (571) 272-4000, or (571) 272-4200, or 1-888-786-0101

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/14/11

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 11437958 Patent No.: 7630186

CofC mailroom date: 07/09/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: Should Related U.S. Application Data be add?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Jared Fureman/

2836

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 07/12/11

TO SPE OF : ART UNIT 2836

SUBJECT : Request for Certificate of Correction for Appl. No.: 11437959 Patent No.: 7672104

CofC mailroom date: 07/09/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: Should Related U.S. Application Data be add?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes **do not apply.**

☐ **Denied**

State the reasons for denial below.

Comments: _____

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

/Jared Fureman/

2836

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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SALIWANCHIK, LLOYD & EISENSCHENK
A PROFESSIONAL ASSOCIATION
PO BOX 142950
GAINESVILLE FL 32614

MAILED

APR 01 2011

OFFICE OF PETITIONS

In re Application of :
Harley J. Pattee :
Application No. 11/437,968 : **DECISION ON PETITION**
Filed: May 19, 2006 :
Attorney Docket No. EZT.101XC1 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed February 21, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed October 21, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 22, 2009. A Notice of Abandonment was mailed July 8, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a response to the Restriction Requirement, (2) the petition fee of \$810.00, and (3) a proper statement of unintentional delay.

The address given on the petition differs from the address of record. A courtesy copy of this decision is being mailed to the address given on the petition; however, the Office will mail all future correspondence solely to the address of record.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This application is being referred to Technology Center AU 1795 for appropriate action by the Examiner in the normal course of business on the reply received.

Joan Olszewski
Petitions Examiner
Office of Petitions

cc: Harley J. Pattee
1909 NE 25th Avenue
Ocala, Florida 34470



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**Bridgelux, Inc. c/o Novak
Druce + Quigg LLP
1000 Louisiana Street,
Fifty- Third Floor
Houston TX 77002**

MAILED
JAN 10 2011
OFFICE OF PETITIONS

In re Patent No. 7,737,455 :
Issue Date: June 15, 2010 :
Application No. 11/437,974 : **NOTICE**
Filed: May 19, 2006 :
Attorney Docket No. 20079.0003.NPUS00 :

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 filed October 29, 2010. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. **See DH Technology v. Synergystex International, Inc.** 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby accepted. The petition is **GRANTED**.

This application is no longer entitled to small entity status. Accordingly, all future fees paid in this application must be paid at the large entity rate.

The fee deficiency payment of \$755 will be charged to petitioner's deposit account,

The address on the petition differs from the address of record. The revocation of power of attorney filed on October 27, 2010 was processed on November 3, 2010. All future correspondence will be mailed to the above-noted address until further notified by applicant.

This file is being forwarded to Files Repository.

Telephone inquiries related to this decision should be directed to the Kimberly Inabinet at (571) 272-4618.

/Carl Friedman/
Carl Friedman
Petitions Examiner
Office of Petitions

cc: Michael S. Garrabrants
Novak Druce & Quigg, LLP
555 Mission Street, 34th Street
San Francisco, CA 94105



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AUG 30 2010

OFFICE OF PETITIONS

FINNEGAN, HENDERSON, FARABOW, GARRETT
& DUNNER LLP
901 NEW YORK AVENUE, NW
WASHINGTON DC 20001-4413

In re Patent No. 7,705,135	: DECISION ON REQUEST FOR
Issued: April 27, 2010	: RECONSIDERATION OF
Application No. 11/437,993	: PATENT TERM ADJUSTMENT
Filed: May 19, 2006	: and
Attorney Docket No. 08100.0045-00000	: NOTICE OF INTENT TO ISSUE
	: CERTIFICATE OF CORRECTION

This is a decision on the APPLICATION FOR PATENT TERM ADJUSTMENT-POST GRANT, which is being treated under 37 CFR 1.705(d), filed June 23, 2010, requesting that the patent term adjustment determination under 35 U.S.C. § 154(b) be changed from 265 days to 362 days.

The petition is **GRANTED**.

The patent term adjustment indicated on the patent is to be corrected by issuance of a certificate of correction showing a revised Patent Term Adjustment of three hundred sixty-two (**362**) days.

On April 27, 2010, the above-identified application matured into U.S. Patent No. 7,705,135. The instant application for patent term adjustment, filed June 23, 2010, was timely filed within two months of the patent grant. The Patent issued with a revised Patent Term Adjustment of 265 days. Patentee acknowledges that there is applicant delay pursuant to 37 CFR 1.704(c)(3) for the period starting on the day after the date the issue fee is due and ending on the earlier of the date of mailing of the decision reviving the application or accepting late payment of the issue fee. The day after the Issue Fee due date is September 9, 2009. The mailing date of the decision reviving the application is February 25, 2010.

Patentees state that the determination of patent term adjustment should not have been reduced by 97 days and that the PTO mistakenly included both the Applicants delay in paying the issue fee of 97 days and the Applicants delay in the amount of 170 days for the petition to revive in the total Applicants delay. Instead, only 170 days of Applicants delay is attributable to both facts because the late payment of the issue fee and petition do not result in serial delay. The 97 day delay for late payment is based on a delay from September 8, 2009, when the fee was due (three months from the June 8, 2009, mail date of the notice of allowance) to December 14, 2009, when the fee was received. The delay for the petition is based on a delay also from September 8, 2009, when the fee was due, to February 25, 2010, when the PTO issued a decision from the petition. Therefore, the petition delay already incorporates the delay for late payment of the

issue fee. Consequently, only 170 days of Applicants delay from these two events should be included in the Applicants delay, resulting in a total Applicants delay of 246 days.

37 C.F.R. § 1.704(c) states:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(3) Abandonment of the application or late payment of the issue fee, in which case the period of adjustment set forth in §1.703 shall be reduced by the number of days, if any, beginning on the date of abandonment or the date after the date the issue fee was due and ending on the earlier of:

(i) The date of mailing of the decision reviving the application or accepting late payment of the issue fee; or

(ii) The date that is four months after the date the grantable petition to revive the application or accept late payment of the issue fee was filed;

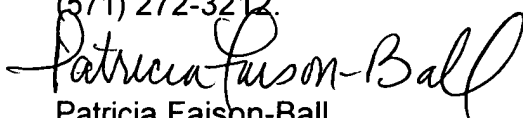
Therefore, Applicants should have been assessed delay for the period from September 9, 2009 (the date the application became abandoned) to February 25, 2010 (the date the decision reviving the application was mailed), or 170 days.

In view thereof, the patent term adjustment indicated on the patent should have been three hundred sixty-two (**362**) days.

The application file is being forwarded to the Certificates of Correction Branch for issuance of a certificate of correction in order to rectify this error. See 35 U.S.C. § 254 and 37 CFR § 1.322. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by THREE HUNDRED SIXTY-TWO (362) days.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e).

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3212.



Patricia Faison-Ball
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT
UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,705,135 B2

DATED : April 27, 2010

INVENTOR(S) : Yawei Ni

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (265) days

Delete the phrase “by 265 days” and insert – by 362 days--



UNITED STATES PATENT AND TRADEMARK OFFICE

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June 16, 2011

Empire Bio-Medical Devices Inc.
8 Keduahat Aharon
Jerusalem IL ISRAEL

In re Application of	:	
Zvi Nachum	:	DECISION ON PETITION
Application No. 11438070	:	
Filed: 5/22/2006	:	ACCEPTANCE OF COLOR
Attorney Docket No. 2452/18	:	DRAWINGS

This is a decision on the Petition to Accept Color Drawings under 37 C.F.R. 1.84 (a) (2), received in the United States Patent and Trademark Office (USPTO) May 22, 2006.

The petition is **GRANTED**.

A grantable petition under 37 C.F.R. 1.84(a) (2) must be accompanied by the following.

1. The fee set forth under 37 C.F.R. 1.17(h),
2. Three (3) sets of the color drawings in question, or (1) set if filed via EFS, and
3. The specification contains appropriate language referring to the color drawings as the first paragraph in that portion of the specification relating to the brief description of the drawings.

The petition was accompanied by all of the required fees and drawings. The specification contains the appropriate language. Therefore, the petition is GRANTED.

Telephone inquiries relating to this decision may be directed to the undersigned in the Office of Data Management at 571-272-4200.

/Don Fairchild/
Office of Data Management
Publications Branch



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Patrick D. Kelly
11939 Manchester #403
St. Louis MO 63131

MAILED

SEP 26 2011

OFFICE OF PETITIONS

In re Application of :
Alan K. Richards :
Application No. 11/438,103 : **DECISION ON PETITION**
Filed: May 19, 2006 :
Attorney Docket No. AR-SULF-US :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed June 10, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the Restriction Requirement mailed April 23, 2009, which set a shortened statutory period for reply of one (1) month or thirty (30) days (whichever is later). No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the date of abandonment was May 24, 2009. A Notice of Abandonment was mailed on November 9, 2009.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an election, (2) the petition fee of \$810, and (3) a proper statement of unintentional delay. Accordingly the election is accepted as being unintentionally delayed.

Telephone inquiries concerning this decision should be directed to Kimberly Inabinet at (571) 272-4618.

This application is being referred to Technology Center AU 1797 for appropriate action by the Examiner in the normal course of business on the reply received June 10, 2011.

/Kimberly Inabinet/

Kimberly Inabinet
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

MAILED
JAN 11 2011
Commissioner for Patents
United States Patent and Trademark Office
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Alexandria, VA 22313-1450
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OFFICE OF PETITIONS Paper No.

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE NY 11747

In re Application of :
Schneeman et al. :
Application No. 11/438,421 : DECISION ON PETITION
Filed: May 23, 2006 : UNDER 37 C.F.R. § 1.137(B)
Attorney Docket Number: 1449- :
201 :
Title: THUMB-ACTUATED HANDLE :
DEVICE :

This is a decision on the petition pursuant to 37 C.F.R. § 1.137(b)¹, filed on May 13, 2010, to revive the above-identified application.

This petition pursuant to 37 C.F.R. § 1.137(b) is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Ex Parte Quayle Office action, mailed July 22, 2009, which set a shortened statutory period for reply of two (2) months. No response was received, and no extensions of time under the provisions of 37 C.F.R. § 1.136(a) were requested. Accordingly, the above-identified application

¹ A grantable petition pursuant to 37 C.F.R. § 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed;
- (2) The petition fee as set forth in § 1.17(m);
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to this paragraph was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional, and;
- (4) Any terminal disclaimer (and fee as set forth in § 1.20(d)) required pursuant to paragraph (d) of this section.

became abandoned on September 23, 2009. A notice of abandonment was mailed on February 23, 2010.

With this petition, Petitioner has submitted the petition fee and the proper statement of unintentional delay. Petitioner has further submitted an amendment that has been considered by the Examiner. A communication from the Examiner has been included with this decision.

The first, second, and third requirements of Rule 1.137(b) have each been satisfied. The fourth requirement of Rule 1.137(b) is not applicable, as a terminal disclaimer is not required.²

The Technology Center will be notified of this decision. The Technology Center's support staff will notify the Examiner of this decision, so that the amendment that was received with the present petition can be processed in due course.

Telephone inquiries **regarding this decision** should be directed to the undersigned at (571) 272-3225.³

/Paul Shanoski/
Paul Shanoski
Senior Attorney
Office of Petitions

Encl. Miscellaneous Office Communication

² See Rule 1.137(d).

³ Petitioner will note that all practice before the Office should be in writing, and the action of the Office will be based exclusively on the written record in the Office. See 37 C.F.R. § 1.2. As such, Petitioner is reminded that no telephone discussion may be controlling or considered authority for any further action(s) of Petitioner.

**UNITED STATES DEPARTMENT OF COMMERCE****U.S. Patent and Trademark Office**

Address : COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

APPLICATION NO./ CONTROL NO.	FILING DATE	FIRST NAMED INVENTOR / PATENT IN REEXAMINATION	ATTORNEY DOCKET NO.
11438421	5/23/06	SCHNEEMAN ET AL.	1449-201

CARTER, DELUCA, FARRELL & SCHMIDT, LLP
445 BROAD HOLLOW ROAD
SUITE 420
MELVILLE, NY 11747

EXAMINER

Richard M.. Lorence

ART UNIT	PAPER
----------	-------

3655

20110105

DATE MAILED:

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner for Patents

Please enter the amendment filed on May 13, 2010 upon revival.

/Richard M. Lorence/
Primary Examiner, Art Unit 3655



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

MORRISON & FOERSTER LLP
755 PAGE MILL RD
PALO ALTO, CA 94304-1018

MAILED

JAN 31 2011

In re Patent No. 7,655,783	:	OFFICE OF PETITIONS
Reilly, et al.	:	DECISION FOR REQUEST
Issue Date: February 2, 2010	:	FOR RECONSIDERATION
Application No. 11/438,487	:	OF PATENT TERM
Filed: May 22, 2006	:	ADJUSTMENT AND INTENT TO
Attorney Docket No. 146392005001	:	ISSUE CERTIFICATE OF
	:	CORRECTION

This is a decision on the "Application for Patent Term Adjustment under 37 CFR 1.705," filed May 27, 2010, which is properly treated under 37 CFR 1.705(d). Patentees request that the patent term adjustment indicated on the face of the Letters of Patent be corrected from three hundred and eighty-two (382) days, to four hundred and seventy-seven (477) days.

The petition to correct the patent term adjustment indicated on the above-identified patent to indicate that the term of the above-identified patent is extended or adjusted **three hundred and eighty-one (381) days is GRANTED to the extent indicated herein.**

On February 2, 2010, the above-identified application matured into U.S. Patent No. 7,655,783, with a revised patent term of 221 days. A "Decision on Request for Recalculation of Patent Term Adjustment in View of Wyeth and Notice of Intent to Issue Certificate of Correction" was mailed April 27, 2010, indicating that the patent term adjustment was determined to be 382 days. By the instant petition, patentees assert that the patent term should be adjusted by 95 days pursuant to 37 CFR 1.702(b) and 37 CFR 1.703(b).

It is noted that patentees failed to account for the filing of the notice of appeal on May 28, 2009. The Office reminds

patentees that the period consumed by appellate review, whether successful or not, is excluded from the calculation of B delay. See 35 U.S.C. 154(b)(1)(B)(ii). In this instance, the period consumed by appellate review is 96 days, beginning on the date on which the notice of appeal to the Board of Patent Appeals and Interferences was filed, May 28, 2009, and ending on the day the Notice of Allowance and Issue Fee Due was mailed, August 31, 2009¹. Thus, the B delay is 160 days (256 - 96). Accordingly, the patent term adjustment is 381 days (306 days of A delay + 160 days of B delay - 0 days of overlap - 85 days of applicant delay).

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentees are given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The Office is in receipt of \$200.00 for the fee set forth in 37 CFR 1.18(e). No additional fees are required.

The application is being forwarded to the Certificates of Corrections Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating

¹ It is noted that Office computers calculated the period consumed by appellate review to be excluded from the "B" delay period as 95 days. This calculation is inaccurate as the period consumed by appellate review to be excluded from the "B" delay begins on, and includes, the day the Notice of Appeal was filed. "When a period is indicated (in 37 CFR 1.703 or 1.704) as 'beginning' on a particular day, that day is included in the period, in that such day is 'day one' of the period and not 'day zero.'" MPEP 2731. "For example, a period beginning on April 1 and ending on April 10 is ten (and not nine) days in length." *Id.* Thus, the relevant period is 96 days, beginning May 28, 2009, and ending August 31, 2009. Office computers have since been reconfigured to make calculations consistent with this interpretation.

Patent No. 7,655,783

Application No. 11/438,487

3

that the term of the above-identified patent is extended or adjusted by **three hundred and eighty-one (381) days**

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

DRAFT COPY

UNITED STATES PATENT AND TRADEMARK OFFICE

CERTIFICATE OF CORRECTION

PATENT : 7,655,783 B2

DATED : Feb. 2, 2010

INVENTOR(S) : Reilly, et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by (221) days

Delete the phrase "by 221 days" and insert – by 381 days--



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WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

MAILED
OCT 14 2011
OFFICE OF PETITIONS

In re Application of
Brian G. Morin
Application No. 11/438,530
Filed: May 22, 2006
Attorney Docket No. ILX-1-DIV

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the request to withdraw as attorney of record under 37 CFR § 1.36, filed August 31, 2011.

The request is **NOT APPROVED**.

The request cannot be approved because it lacks a forwarding correspondence address of the first named inventor or a properly intervening assignee.

If the forwarding correspondence address is to the assignee, the Office will only accept correspondence address changes to the most current address information provided for the assignee of the entire interest *that properly became of record under 37 CFR 3.71*. 37 CFR 3.71(c) states:

An assignee becomes of record either in a national patent application or a reexamination proceeding by filing a statement in compliance with § 3.73(b) that is signed by a party who is authorized to act on behalf of the assignee.

The assignee must establish its ownership of the patent to the satisfaction of the Director. In this regard, the statement under 37 CFR 3.73(b) must have either: (i) documentary evidence of a chain of title from the original owner to the assignee (e.g., copy of an executed assignment), and a statement affirming that the documentary evidence of the chain of title from the original owner to the assignee was or concurrently is being submitted for recordation pursuant to § 3.11; or (ii) a statement specifying where documentary evidence of a chain of title from the original owner to the assignee is recorded in the assignment records of the Office (e.g., reel and frame number).

All future communications from the Office will continue to be directed to the above-listed address until otherwise notified by applicant.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-2991.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **BRANCH BANKING AND TRUST COMPANY**
301 COLLEGE STREET
GREENVILLE, SC 29601-2014



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
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WYATT, TARRANT & COMBS, LLP
1715 AARON BRENNER DRIVE
SUITE 800
MEMPHIS TN 38120-4367

MAILED

JAN 03 2012

In re Application of
Brian G. Morin
Application No. 11/438,530
Filed: May 22, 2006
Attorney Docket No. ILX-1-DIV

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 14, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, January 31, 2011, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on May 1, 2011. The Notice of Abandonment was mailed September 12, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$930, and (3) a proper statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

There is no indication that the person signing the petition was ever given a power of attorney to prosecute the application. If the person signing the petition desires to receive future correspondence regarding this application, the appropriate power of attorney document must be submitted. While a courtesy copy of this decision is being mailed to the person signing the petition, all future correspondence will be directed to the address currently of record until appropriate instructions are received.

Telephone inquiries concerning this decision should be directed to Terri Johnson at (571) 272-2991.

This application is being referred to Technology Center AU 1742 for appropriate action by the Examiner in the normal course of business on the reply received.

/Terri Johnson/
Terri Johnson
Petitions Examiner
Office of Petitions

cc: **Douglas W. Kim**
McNair Law Firm, P.A.
Post Office Box 447
Greenville, SC 29602



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Law Offices of John A. Parrish
Suite 300
Two Bala Plaza
Bala Cynwyd PA 19004

In re Application of
BAEK, NAM JOONG, et al.
Application No. 11/438,592
Filed: May 22, 2006
Attorney Docket No.: DKC 3600

FEB 16 2011

DECISION ON PETITION

This is a decision on the Petition to Withdraw Holding of Abandonment received in the United States Patent and Trademark Office (USPTO) on October 4, 2010.

This petition is **GRANTED**.

The application was inadvertently abandoned for failure to timely submit the Issue Fee and Publication fee as required by the Notice of Allowance, mailed June 8, 2010 which set forth a three (3) month statutory period of reply. The Notice of Abandonment was mailed on September 27, 2010.

Petitioner states that the issue fee transmittal and payment were timely filed via the USPTO on September 1, 2010. Petitioner submitted a copy of the original submission which included a properly completed Certificate of Mailing/Transmission.

In view of the foregoing, the holding of abandonment for failure to timely pay the issue fee is hereby withdrawn and the application restored to pending status.

Telephone inquiries concerning this decision be directed to the undersigned in the Office of Patent Publication at 703-756-1547.

Kay D. Pinkney
Application Assistance Unit
Office of Data Management



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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RYAN KROMHOLZ & MANION, S.C.
POST OFFICE BOX 26618
MILWAUKEE WI 53226

MAILED

FEB 15 2011

**OFFICE OF PETITIONS
DECISION ON PETITION**

In re Application of
Horzewski et al.
Application No. 11/438,717
Filed: May 22, 2006
Attorney Dkt. No. 9345.17121

This is a decision on the petition, filed November 22, 2010, which is being treated as a petition under 37 CFR 1.181, requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be filed within two (2) months from the mail date of this decision. *Note* 37 CFR 1.181(f). The request for reconsideration should include a cover letter and be entitled as a "Renewed Petition under 37 CFR 1.181 to Withdraw the Holding of Abandonment."

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed November 30, 2009. The Office Action set a three (3) month shortened statutory period for reply. No extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on March 1, 2010. A Notice of Abandonment was mailed on July 21, 2010.

Petitioner states that a timely reply was mailed, which included the following papers: specification, amendment, request for three month extension of time and a check on June 1, 2010.

The submission of the petition to withdraw the holding of abandonment is untimely. 37 CFR 1.181(f) provides that, inter alia, except as otherwise provided, any petition not filed within 2 months of the mail date of a notice of abandonment (the action complained of) may be dismissed as untimely. The Notice of Abandonment was mailed on July 21, 2010. A petition was not filed in this application until November 22, 2010 over four months later. Thus, the petition is untimely.

If petitioner cannot supply the evidence necessary to withdraw the holding of abandonment, or simply does not wish to, petitioner should consider filing a petition under 37 CFR 1.137(b) stating that the delay was unintentional. Public Law 97-247, § 3, 96 Stat. 317 (1982), which revised patent and trademark fees, amended 35 U.S.C. § 41(a)(7) to provide for the revival of an "unintentionally" abandoned application without a showing

that the delay in prosecution or in late payment of the issue fee was "unavoidable." This amendment to 35 U.S.C. § 41(a)(7) has been implemented in 37 CFR 1.137(b). An "unintentional" petition under 37 CFR 1.137(b) must be accompanied by the \$810 petition fee.

The filing of a petition under 37 CFR 1.137(b) cannot be intentionally delayed and therefore must be filed promptly. A person seeking revival due to unintentional delay cannot make a statement that the delay was unintentional unless the entire delay, including the date it was discovered that the application was abandoned until the filing of the petition to revive under 37 CFR 1.137(b), was unintentional. A statement that the delay was unintentional is not appropriate if petitioner intentionally delayed the filing of a petition for revival under 37 CFR 1.137(b).

Further correspondence with respect to this matter should be addressed as follows:

By Mail: Mail Stop PETITION
 Commissioner for Patents
 P. O. Box 1450
 Alexandria, VA 22313-1450

By hand: U. S. Patent and Trademark Office
 Customer Service Window, Mail Stop Petitions
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

By facsimile: **(571) 273-8300**
 Attn: Office of Petitions

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.



Charlema Grant
Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

SUGHRUE-265550
2100 PENNSYLVANIA AVE. NW
WASHINGTON, DC 20037-3213

MAILED

AUG 19 2010

In re Application of	:	OFFICE OF PETITIONS
Kenji Wada	:	
Application No. 11/438,728	:	DECISION GRANTING PETITION
Filed: May 23, 2006	:	UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. Q95046	:	

This is a decision on the petition under 37 CFR 1.313(c)(2), filed August 18, 2010, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on August 6, 2010 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries regarding the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 1623 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/83 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	REQUEST FOR WITHDRAWAL AS ATTORNEY OR AGENT AND CHANGE OF CORRESPONDENCE ADDRESS	
Application Number	11438820	
Filing Date	23-May-2006	
First Named Inventor	Soheil Nazari	
Art Unit	2483	
Examiner Name	DAVID CZEKAJ	
Attorney Docket Number	NZRIP001	
Title	Stand alone surveillance system	
<input checked="" type="radio"/> Please withdraw me as attorney or agent for the above identified patent application and the practitioners of record associated with Customer Number: 28875		
The reason(s) for this request are those described in 37 CFR: 10.40(c)(1)(iv)		
Certifications		
<input checked="" type="checkbox"/> I/We have given reasonable notice to the client, prior to the expiration of the response period, that the practitioner(s) intend to withdraw from employment		
<input checked="" type="checkbox"/> I/We have delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled		
<input checked="" type="checkbox"/> I/We have notified the client of any responses that may be due and the time frame within which the client must respond		
Change the correspondence address and direct all future correspondence to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71:		
Name	Soheil Nazari	
Address	4120 Douglas Blvd.; Ste 306-232	
City	Granite Bay	
State	CA	
Postal Code	95746	
Country	US	

I am authorized to sign on behalf of myself and all withdrawing practitioners.

Signature	/Dominic M. Kotab/
Name	Dominic M. Kotab
Registration Number	42762



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : July 12,2011

In re Application of :

Soheil Nazari

Application No : 11438820

Filed : 23-May-2006

Attorney Docket No : NZRIP001

DECISION ON REQUEST TO WITHDRAW AS
ATTORNEY/AGENT OF RECORD

This is an electronic decision on the Request to Withdraw as attorney or agent of record under 37 CFR § 1.36(b), filed July 12,2011

The request is **APPROVED**.

The request was signed by Dominic M. Kotab (registration no. 42762) on behalf of all attorneys/agents associated with Customer Number 28875 . All attorneys/agents associated with Customer Number 28875 have been withdrawn.

Since there are no remaining attorneys of record, all future communications from the Office will be directed to the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71, with correspondence address:

Name Soheil Nazari

Name2

Address 1 4120 Douglas Blvd.; Ste 306-232

Address 2

City Granite Bay

State CA

Postal Code 95746

Country US

As a reminder, requester is required to inform the first named inventor or assignee that has properly made itself of record pursuant to 37 CFR 3.71 of the electronically processed petition.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions

Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/64 U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	
Application Number	11438844	
Filing Date	23-May-2006	
First Named Inventor	Paul Chamandy	
Art Unit	3611	
Examiner Name	GARY HOGE	
Attorney Docket Number	M-669	
Title	GARMENT MARKING CLIP	
<p>The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus any extensions of time actually obtained.</p> <p>APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION</p> <p>NOTE: A grantable petition requires the following items:</p> <ul style="list-style-type: none"> (1) Petition fee; (2) Reply and/or issue fee; (3) Terminal disclaimer with disclaimer fee – required for all utility and plant applications filed before June 8, 1995; and for all design applications; (4) Statement that the entire delay was unintentional. 		
<p>Petition fee</p> <p>The petition fee under 37CFR 1.17(m) is attached.</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY.</p>		
<p>Issue Fee and Publication Fee :</p> <p>Issue Fee and Publication Fee must accompany ePetition.</p> <p><input checked="" type="checkbox"/> Issue Fee Transmittal is attached</p>		
<p>Drawing corrections and/ or other deficiencies.</p>		

- ☒ Drawing corrections and/ or other deficiencies are not required
- ☐ I certify, in accordance with 37 CFR 1.4.(D)(4), that drawing corrections and/ or other deficiencies have previously been filed on
- ☐ Drawing corrections and/ or other deficiencies are attached.

STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a ☒ grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☐ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ☐ A joint inventor; all of whom are signing this e-petition.
- ☒ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Amber C. Ruic/
Name	Amber C. Ruic



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : October 17,2011

In re Application of :

Paul Chamandy

Application No : 11438844

Filed : 23-May-2006

Attorney Docket No : M-669

DECISION ON PETITION

UNDER CFR 1.137(b)

This is an electronic decision on the petition under 37 CFR 1.137(b), filed October 17,2011 , to revive the above-identified application.

The petition is **GRANTED**.

The above-identified application became abandoned for failure to reply in a timely manner to the Notice of Allowance and Issue Fee(s) Due. The date of abandonment is the day after the expiration date of the period set for reply in the Notice.

The electronic petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of payment of the Issue Fee and the Publication Fee (if necessary); (2) the petition fee as set forth in 37 CFR 1.17 (m); (3) the drawing correction and/or other deficiencies (if necessary); and (4) the required statement of unintentional delay have been received. Accordingly, the Issue Fee payment is accepted as having been unintentionally delayed.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

This application file is being directed to the Office of Data Management.

Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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FUJITSU PATENT CENTER
FUJITSU MANAGEMENT SERVICES OF AMERICA INC
2318 MILL ROAD SUITE 1010
ALEXANDRIA VA 22314

MAILED
SEP 07 2011
OFFICE OF PETITIONS

In re Application of :
Honishi, et al. :
Application No. 11/438,871 : ON PETITION
Filed: May 23, 2006 :
Attorney Docket No. 05-53004 :

This is a decision on the petition to revive under
37 CFR 1.137(b), filed June 2, 2011.

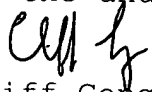
The petition under 37 CFR 1.137(b) is **GRANTED**.

The above application became abandoned for failure to timely file
a reply in response to the non-final Office action, mailed
October 27, 2010. This Office action set a shortened statutory
period for reply of three months. No reply having been received,
the application became abandoned on January 28, 2011.

With the instant petition, applicants made the proper statement
of unintentional delay, paid the petition fee, and filed an
Amendment.

The application is being forwarded to Group Art Unit 2194 for
consideration of the Amendment, filed June 2, 2011.

Telephone inquiries related to this decision should be directed
to the undersigned at (571)272-3207.


Cliff Congo
Petitions Attorney
Office of Petitions



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Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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MAILED
SEP 13 2010
OFFICE OF PETITIONS

THE FARRELL LAW FIRM, LLP
290 BROADHOLLOW ROAD
SUITE 210E
MELVILLE, NY 11747

In re Patent No. 7,779,484
Issue Date: August 24, 2010
Application No. 11/438,899
Filed: May 22, 2006
Attorney Docket No. 2098-2

:
:
:
:
:

ON PETITION

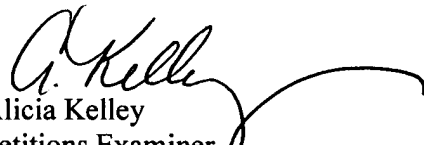
This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-6059.


Alicia Kelley
Petitions Examiner
Office of Petitions

cc: THE LAW OFFICE OF FRANK V. DEROSA, P.C.
2005 MERRICK ROAD, SUITE 329
MERRICK, NY 11566



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

SEP 13 2010

In re Patent No. 7,154,239	:	OFFICE OF PETITIONS
Issued: December 26, 2006	:	
Application No. 11/439,133	:	ON PETITION
Filed: May 24, 2006	:	
Attorney Docket No. 2561-0028	:	

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28. On September 1, 1998, the Court of Appeals for the Federal Circuit held that 37 CFR 1.28(c) is the sole provision governing the time for correction of the erroneous payment of the issue fee as a small entity. See **DH Technology v. Synergystex International, Inc.** 154 F.3d 1333, 47 USPQ2d 1865 (Fed. Cir. Sept. 1, 1998).

The Office no longer investigates or rejects original or reissue applications under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

Joan Olszewski
Petitions Examiner
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,359	05/23/2006	Steven G. Goebel	GP-307141-FCA-CHE	4622
<div>65798 7590 09/15/2010</div> <div>MILLER IP GROUP, PLC GENERAL MOTORS CORPORATION 42690 WOODWARD AVENUE SUITE 200 BLOOMFIELD HILLS, MI 48304</div>				
			<div>EXAMINER</div> <div>APICELLA, KARIE O</div>	
			<div>ART UNIT</div> <div>1795</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE</div> <div>09/15/2010</div>	<div>DELIVERY MODE</div> <div>PAPER</div>

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



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SEP 15 2010

el

Mailed :
In re application of
Steven G. Goebel
Serial No. 11/439,359
Filed: May 23, 2006
For: DIFFUSION MEDIA FOR SEAL SUPPORT FOR IMPROVED FUEL CELL DESIGN

DECISION ON
PETITION

This is a decision on the PETITION UNDER 37 CFR 1.144 TO WITHDRAW THE RESTRICTION REQUIREMENT mailed January 22, 2010 and made final in the office action mailed May 11, 2010.

On January 22, 2010, a four-way restriction requirement was made by the examiner. The examiner took the position that the groups were related products. Applicant traversed the restriction requirement in a response filed February 11, 2010. The examiner made the requirement final in an office action mailed May 11, 2010.

On June 14, 2010, the instant petition under 37 CFR 1.144 was filed to formally request the withdrawal of the restriction requirement.

Applicant's position for the withdrawal of the restriction requirement is that the examiner has not shown that the separate groups are distinct.

DECISION

Sections 803 and 806.05(j) of the MPEP state:

Section 803 of the MPEP states:

There are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent (see MPEP 802.01, 806.06, 808.01) or distinct as claimed (see MPEP 806.05-806.05(j)); and
- (B) There would be a serious burden on the examiner if restriction is not required (see MPEP 803.02, 808, and 808.02).

806.05(j) Related Products; Related Processes

To support a requirement for restriction between two or more related product inventions, or between two or more related process inventions, both two-way distinctness and reasons for insisting on restriction are necessary, i.e., separate classification, status in the art, or field of search. See MPEP § 808.02. See MPEP § 806.05(c) for an explanation of the requirements to establish two-way distinctness as it applies to inventions in a combination/subcombination relationship. For other related product inventions, or related process inventions, the inventions are distinct if

- (A) the inventions as claimed do not overlap in scope, i.e., are mutually exclusive;
- (B) the inventions as claimed are not obvious variants; and
- (C) the inventions as claimed are either not capable of use together or can have a materially different design, mode of operation, function, or effect. See MPEP § 802.01.

In the restriction requirement mailed on January 22, 2010, the examiner required restriction among 4 different groups. The examiner stated:

- i) the invention of Group II is distinct from the invention of Group I because the invention of Group II does not require the plurality of bipolar plates, the cooling fluid inlet header, and a cooling fluid outlet header of the invention of Group I.
- ii) the invention of Group I is distinct from the invention of Group III because the invention of Group I does not require the membrane of each fuel cell to extend straight through the seal area provided by the configuration of seals in the invention of Group III.
- iii) the invention of Group II is distinct from the invention of Group III because the invention of group II does not require the plurality of bipolar plates, the cooling fluid inlet header, and a cooling fluid outlet header of the invention of Group III.
- iv) the inventions of Groups I, II, III and IV are distinct from one another because a) the inventions of Groups I, II and III do not require the shim of the invention of Group IV, and b) the invention of Group IV does not require the plurality of bipolar plates, the cooling fluid inlet header, and a cooling fluid outlet header of the inventions of Groups I and III.

In review of the restriction requirement and the original claims, it is found that the examiner has failed to establish that Groups I-IV, as detailed in the restriction requirement, do not overlap in scope. All the claims listed under Groups I-IV are directed to fuels cell stacks of varying, but overlapping scope. Additionally, it is found that the asserted distinct features (shims; plurality of bipolar plates, the cooling fluid inlet header, and a cooling fluid outlet header; and membrane of each fuel cell to extend straight through the seal area provided by the configuration of seals) are readily recited in the claims listed with Group I.

Regarding the examiner's response to Applicant's traversal, in the office action mailed May 11, 2010, it appears that the examiner used independent claims to determine the claims listing of Groups I-IV, and also to ascertain the distinct features among the groups. If this is the case, such

practice is improper as independent claims do not necessarily set forth distinct or independent inventions. Restriction should be made between/among inventions, not independent claims.

Sections 803 of the MPEP further states:

803 Restriction - When Proper

If the search and examination of an entire application can be made without serious burden, the examiner must examine it on the merits, even though it includes claims to independent or distinct inventions.

Additionally, the examiner has failed to establish that there would be serious burden in search and examination of these claims. The lack of serious burden is evidenced by the prior art cited by the examiner in the non-final office action mailed May 11, 2010. On pages 5-6 of the cited office action, the cited prior art teaches all the asserted distinct features. The prior art teaches a fuel cell stack having shims; a plurality of bipolar plates, the cooling fluid inlet header, and a cooling fluid outlet header; and the membrane of each fuel cell to extend straight through the seal area provided by the configuration of seals. Thus, in the absence of a serious burden, the restriction is improper.

Accordingly, the petition for withdrawal of the restriction requirement is **GRANTED**. The application is being forwarded to the examiner to rejoin all of the non-elected claims and prepare a new non-final office action addressing all pending claims. Because Applicants have submitted an amendment in response to the office action mailed May 11, 2010, the non-final office action should also address said response.

/W. GARY JONES/
W. Gary Jones, Director
Technology Center 1700
Chemical and Materials Engineering

MILLER IP GROUP, PLC
GENERAL MOTORS CORPORATION
42690 WOODWARD AVENUE
SUITE 200
BLOOMFIELD HILLS MI 48304



UNITED STATES PATENT AND TRADEMARK OFFICE

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PERKINS COIE LLP
P.O. BOX 1208
SEATTLE WA 98111-1208

MAILED

AUG 27 2010

In re Application of
Jeffrey CHEN, et al
Application No. 11/439,388
Filed: May 22, 2006
Attorney Docket No. 59069-8001.US01

OFFICE OF PETITIONS

**DECISION ON PETITION
TO WITHDRAW
FROM RECORD**

This is a decision on the Request to Withdraw as attorney or agent under 37 C.F.R. § 1.36(b) filed July 23, 2010.

The request is **NOT APPROVED**.

The Office will no longer approve requests from practitioners to withdraw from applications where the requesting practitioner is acting, or has acted, in a representative capacity pursuant to 37 CFR 1.34. In these situations, the practitioner is responsible for the correspondence the practitioner files in the application while acting in a representative capacity. As such, there is no need for the practitioner to obtain the Office's permission to withdraw from representation. However, practitioners acting in a representative capacity, like practitioners who have a power of attorney in the application, remain responsible for noncompliance with 37 CFR 1.56, as well as 37 CFR 10.18, with respect to documents they file.

A review of the file record indicates that R. Michael Ananian does not have power of attorney in this patent application. See 37 C.F.R. § 10.40. Accordingly, the request to withdraw under 37 C.F.R. § 1.36(b) is not applicable.

All future communications from the Office will continue to be directed to the above-identified address until otherwise properly notified.

Telephone inquires concerning this decision should be directed to the undersigned at (571) 272-6735.

/dcg/
Diane Goodwyn
Petitions Examiner
Office of Petitions

cc: JEFFREY CHEN
2254A VAN NESS AVENUE
SAN FRANCISCO, CA 94109

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/19/11

TO SPE OF : ART UNIT 1715

SUBJECT : Request for Certificate of Correction for Appl. No.: 11439554 Patent No.: 7875312

CofC mailroom date: 09/02/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes in the claims be approved?

Lamonte Newsome

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☒ **Denied**

State the reasons for denial below.

Comments: KR1020050018641 was not cited or made
of record in this case. The instructions for
claim 22 do not correspond to the issued patent.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

There is no col 14, line 10 in the issued patent
and there is no "R" in claim 22.

P. J. Keeler

1715

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Date Mailed : 09/23/11

Patent No. : 7875312 B2
Patent Issued : 01/25/11
Docket No. : 06900 USA

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322.

Respecting the alleged errors in the documents filed on 09/02/11; please see attachments.

"Therefore, no correction(s) is in order here under United States Codes (U.S.C.) 254 and the Code of Federal Regulation (C.F.R.) 1322."

In view of the foregoing, your request in this matter is hereby denied.

A handwritten signature in cursive script that reads "Lamonte M. Newsome".

Lamonte M. Newsome
For Mary Diggs, Supervisor
Decisions & Certificates
Of Correction Branch
(571) 272-3421 or (703) 305-8309

**AIR PRODUCTS AND CHEMICALS, INC.
PATENT DEPARTMENT
7201 HAMILTON BOULEVARD
ALLENTOWN PA 18195-1501**

LMN

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 09/19/11

TO SPE OF : ART UNIT 1715

SUBJECT : Request for Certificate of Correction for Appl. No.: 11439554 Patent No.: 7875312

CofC mailroom date: 09/02/11

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)

Randolph Square – 9D10-A

Palm Location 7580

You can fax the Directors/SPE response to 571-273-3421

Note: Should the changes in the claims be approved?

Lamonte Newsome.

Certificates of Correction Branch

571-272-3421

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☐ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☒ **Denied**

State the reasons for denial below.

Comments: KR1020050018641 was not cited or made
of record in this case. The instructions for
claim 22 do not correspond to the issued patent.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

There is no col 14, line 10 in the issued patent
and there is no "R" in claim 22.

P. Weeks

1715

SPE

Art Unit



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/439,571	05/23/2006	Christopher J. Nalepa	S7-7516+	9276
7982	7590	04/08/2011	EXAMINER	
ALBEMARLE CORPORATION PATENT DEPARTMENT 451 FLORIDA STREET BATON ROUGE, LA 70801			SCHLIENTZ, NATHAN W	
			ART UNIT	PAPER NUMBER
			1616	
			MAIL DATE	DELIVERY MODE
			04/08/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

APR 08 2011

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ALBEMARLE CORPORATION
PATENT DEPARTMENT
451 FLORIDA STREET
BATON ROUGE LA 70801

In re Application of :
Nalepa, et al. :
Serial No.: 11/439571 : Decision on Petition
Filed: May 23, 2006 :
Attorney Docket No: S7-7516+ :

This letter is in response to the petition filed under 37 C.F.R. § 1.181 filed on March 16, 2011 to withdraw the finality of the Office action of January 18, 2011 due to its being premature.

BACKGROUND

The examiner mailed to applicants a non-final Office action on July 8, 2010. Claims 1-74 were pending and claims 1-74 were rejected. Claims 1-28, 30 and 67 were rejected under 112, second paragraph, as indefinite. Claims 1-46 and 50-74 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. in view of Hicks. Claims 1-46 and 50-74 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,652,889 in view of Hicks. Claims 23-25 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 7,087,251 in view of Hicks.

In response thereto, applicants submitted amendments and remarks on October 1, 2010 addressing the rejections set forth in the Office action of July 8, 2010.

The examiner mailed to applicants a final Office action on January 18, 2011. Claims 1-77 were pending and claims 1-77 were rejected. Claims 1-3, 5, 8, 9, 11, 12, 14-16, 18-21, 26, 29-33, 35, 36, 38-40, 42, 43, 45, 46, 50, 53-55, 57, 59, 60, 62, 63, 65 and 67 were rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Fishler et al. in view of Dallmier et al. Claims 1-77 were rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. in view of Hicks. Claims 1-77 were rejected under 35 U.S.C. 103(a) as being unpatentable over Fishler et al. in view of Moore et al. and Dallmier et al.

Claims 1-46 and 50-74 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of U.S. Patent No. 6,652,889 in view of Fishler et al. Claims 23-25 were rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 7,087,251 in view of Fishler et al. The examiner noted that applicants' amendment necessitated the new ground(s) of rejection set forth in the final Office action.

On March 16, 2011, applicants submitted the petition currently under review.

DISCUSSION

The petition and file history have been carefully considered.

Applicants argue that "Applicants did amend the claims in Response to the first Office Action on the merits in the present case. This is the reason indicated in the outstanding Office Action for the new grounds of rejection (Office Action, Page 14). Clearly, Applicants do not agree with this position. The amendments in the Response to the previous Office Action were made to correct various informalities in the claims. The new claims fall within the scope of the claims already on file. Claims 1, 5, 6, 24, 30, 31, 47, 48, and 67 were amended, and Claims 75-77 were added." As a result, applicants argue "Finality of the outstanding Office Action is premature."

Applicants' arguments have been accorded careful consideration but they are not persuasive that the examiner erred in making the Office action of January 18, 2011 final. Before the amendment, the claims did not require an "aqueous" composition. However, after the amendment, an "aqueous" composition was required, as well as "water". Thus, these "new" limitations require further consideration, which consideration was not required prior to the amendment. Furthermore, re-searching the applications with these new limitations was required. As a result, the "new" rejections were, in fact, necessitated by amendment. Accordingly, the finality of the Office action of January 18, 2011 is deemed proper.

DECISION

The petition is **DENIED**.

Any new or renewed petition must be filed within TWO MONTHS of the mail date of this decision.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, Technology Center 1600, at the address listed above, or by telephone at 571-272-1600 or by facsimile sent to the general Office facsimile number, 571-273-8300.


Remy Yucel
Director, Technology Center 1600



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30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498

MAILED
SEP 21 2010
OFFICE OF PETITIONS

In re Application of	:
Randolf Von Oepen et al.	:
Application No. 11/439,591	: DECISION ON REQUEST
Filed: May 23, 2006	: FOR RECONSIDERATION
Attorney Docket No. 003168.0427	: OF PATENT TERM ADJUSTMENT
	:

This is a decision on the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. § 1.705(b) filed May 7, 2010, requesting correction of the patent term adjustment indicated on the above-identified patent from 259 days to 509 days. Applicant requests this correction in part on the basis that the Office will take in excess of three years to issue this patent and in light of the recent court decision in *Wyeth v. Kappos*, 2009-1120 (Fed. Cir. 1-7-2010).

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within three years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentees are entitled to for Office failure to issue the patent within three years. See 37 CFR 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under 37 CFR 1.702(a)(4) or applicant delay under 37 CFR 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office cannot make a determination on the patent term adjustment relating to those provisions until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss such a request as premature.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicants are advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicants must timely file an application for patent term adjustment prior to the payment of the issue fee.¹

To the extent that applicant otherwise requests correction of the patent term adjustment at the time of the mailing of the Notice of Allowance, the application for patent term adjustment is **DISMISSED**.

Applicants contest the application(s) of 37 CFR § 1.704(b) to reduce the patent term adjustment by three (3) days in that the Office action response was filed on the first business day after a deadline falling on a weekend or holiday and thus was not late.

Applicant's arguments have been considered, but not found to be persuasive.

Rule 1.704(b) sets forth, in pertinent part:

an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of three months that are taken to reply to any notice or action by the Office making any rejection, objection, argument, or other request, measuring such three-month period from the date the notice or action was mailed or given to the applicant, in which case the period of adjustment set forth in § 1.703 shall be reduced by the number of days, if any, beginning on the day after the date that is three months after the date of mailing or transmission of the Office communication notifying the applicant of the rejection, objection, argument, or other request and ending on the date the reply was filed. The period, or shortened statutory period, for reply that is set in the Office action or notice has no effect on the three-month period set forth in this paragraph.

¹For example, if applicants dispute both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed, and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicants must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the § 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

A non-Final Office Action was mailed on November 14, 2008 and the response therefore was due on February 14, 2008. February 14, 2008 was a weekend and February 16, 2008 was a holiday and thus, the response was received on February 17, 2008 which is three months and three days later. As such, a reduction of three days was assessed. Patentees have argued that this is improper, as February 14, 2008 fell on a weekend. However, Petitioner will note that 35 U.S.C. 154(b)(2)(C)(ii)² does not require that a reply be filed in the Office within its three (3) month grace period, but simply specifies that there is a patent term adjustment reduction if a reply is not filed within this three (3) month period. Therefore, the "carry-over" provisions of 35 U.S.C. § 21(b)³ does not apply to the three (3) month period in 35 U.S.C. 154(b)(2)(C)(ii).

In view thereof, it is concluded that the determination of patent term adjustment at the time of the mailing of the Notice of Allowance is 259 days.

The record supports a conclusion that this application is not subject to a terminal disclaimer"

Receipt of the \$200.00 fee set forth in 37 CFR 1.18(e) is acknowledged. No additional fees are required.

The application is being forwarded to the Office of Data Management for issuance of the patent. The patent term adjustment indicated on the patent (as shown on the Issue Notification mailed about three weeks prior to patent issuance) will include any additional adjustment accrued both for Office delay in issuing the patent more than four months after payment of the issue fee and satisfaction of all outstanding requirements, and for the Office taking in excess of three years to issue the patent (to the extent that the three-year period does not overlap with periods already accorded).

Telephone inquiries specific to this decision should be directed to Senior Petitions Attorney Patricia Faison-Ball at (571) 272-3212.


Anthony Knight
Director
Office of Petitions

² "With respect to adjustments to patent term made under the authority of paragraph (1)(B), an applicant shall be deemed to have failed to engage in reasonable efforts to conclude processing or examination of an application for the cumulative total of any periods of time in excess of 3 months that are taken to respond to a notice from the Office making any rejection, objection, argument, or other request, measuring such 3-month period from the date the notice was given or mailed to the applicant."

³ "When the day, or the last day, for taking any action or paying any fee in the United States Patent and Trademark Office falls on Saturday, Sunday, or a Federal holiday within the District of Columbia, the action may be taken, or fee paid, on the next succeeding secular or business day."



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BAKER BOTTS L.L.P.
30 ROCKEFELLER PLAZA
44th Floor
NEW YORK NY 10112-4498

MAILED

AUG 13 2010

OFFICE OF PETITIONS

In re Application of :
Grandt et al. :
Application No. 11/439,596 : ON APPLICATION FOR
Filed: May 23, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 003168.0429 :

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT UNDER 37 C.F.R. §1.705(b) filed May 7, 2010. Applicant requests this correction in part to reflect the delay due to the Office taking in excess of three years to issue the patent. Otherwise, applicant requests this correction on the basis that the patent term adjustment to date incorrectly calculates applicant delay.

To the extent the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued. Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the

initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

To the extent that applicant otherwise requests reconsideration of the patent term adjustment at the time of the mailing of the notice of allowance, the application for patent term adjustment is DISMISSED.

On March 11, 2010, the Office mailed the Determination of Patent Term Adjustment under 35 U.S.C. 154(b) in the above-identified application. The Notice stated that the patent term adjustment to date is 742 days. The instant application for patent term adjustment was timely filed² on or before payment of the issue fee. Applicant disputes the reduction of 32 days associated

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

² PALM records indicate that the issue fee was paid on June 11, 2010.

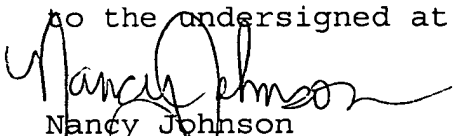
with the filing of a response on January 18, 2010, as January 18, 2010 was a federal holiday and thus, pursuant to 37 CFR 1.7 and MPEP 710.05 the filing on the succeeding business day does not constitute a delay.

Applicant's argument has been considered, but not found persuasive. The date of receipt of the response is the date used in calculation of applicant delay. As stated in MPEP 2731, 37 CFR 1.703(f) provides that the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 shall not be taken into account in this calculation. The date indicated on a certificate of mailing is used only to determine whether the correspondence is timely (including whether any extension of the time and fee are required) so as to avoid abandonment of the application or termination or dismissal of proceedings. The actual date of receipt of the correspondence in the Office is used for all other purposes. See 37 CFR 1.8(a). Thus, while the date indicated on any certificate of mailing or transmission under 37 CFR 1.8 will continue to be taken into account in determining timeliness, the date of filing (37 CFR 1.6) will be the date used in a patent term adjustment calculation. Likewise, the fact that the three-month date falls on a federal holiday does not alter the date used for purposes of calculation of the patent term adjustment. Although the reply is deemed timely filed on the succeeding business day, for purposes of calculating applicant delay the reduction is properly calculated based on the actual date of receipt of the response.

The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3219.



Nancy Johnson
Senior Petitions Attorney
Office of Petitions

Doc Code: PET.PTA.RCAL

Document Description: Request for Recalculation in view of Wyeth

PTO/SB/131 (01-10)

Approved for use through 02/28/2011. OMB 0651-0020

U.S. Patent and Trademark Office; U. S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT IN VIEW OF *WYETH**

Attorney Docket
Number:

212/889

Patent Number:

7665991

Filing Date

(or 371(b) or (f) Date): **05/23/06**

Issue Date:

02/23/10

First Named
Inventor:

Jimmie Kert

Title:

Endodontic Obturator

PATENTEE HEREBY REQUESTS RECALCULATION OF THE PATENT TERM ADJUSTMENT (PTA) UNDER 35 USC 154(b) INDICATED ON THE ABOVE-IDENTIFIED PATENT. THE PATENTEE'S SOLE BASIS FOR REQUESTING THE RECALCULATION IS THE USPTO'S PRE-*WYETH* INTERPRETATION OF 35 U.S.C. 154(b)(2)(A).

Note: This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A). See Instruction Sheet on page 2 for more information.

Patentees are reminded that to preserve the right to review in the United States District Court for the District of Columbia of the USPTO's patent term adjustment determination, a patentee must ensure that he or she also takes the steps required under 35 U.S.C. 154(b)(3) and (b)(4) and 37 CFR 1.705 in a timely manner.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Signature

/K. David Crockett/

Date

August 3, 2010

Name

(Print/Typed)

K. David Crockett, Esq.

Registration Number

34,311

Note: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required in accordance with 37 CFR 1.33 and 11.18. Please see 37 CFR 1.4(d) for the form of the signature. If necessary, submit multiple forms for more than one signature, see below*.

☐

*Total of _____ forms are submitted.

The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. **SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Instruction Sheet for:
REQUEST FOR RECALCULATION OF PATENT TERM ADJUSTMENT
IN VIEW OF *WYETH**
(Not to be Submitted to the USPTO)

This form is only for requesting a recalculation of PTA for patents issued before March 2, 2010, if the sole basis for requesting the recalculation is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A).

This form must be filed within 180 days of the day the patent was granted, with the following exception:

Patentees who received a decision from the USPTO under the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) may file a request for reconsideration of that decision if such a request for reconsideration is filed within **two months** of the date of the decision (37 CFR 1.181(f)). If the patentee's sole basis for requesting reconsideration of the decision is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A), the request for reconsideration need only state that reconsideration is being requested in view of *Wyeth* (this form may be used for this purpose if it is filed within **two months** of the date of the decision from the USPTO).

Do not use this form if the application has been allowed, but not yet issued as a patent.

- 1. For patents issued before March 2, 2010:** A request for reconsideration under 37 CFR 1.705(d) and the fee set forth in 37 CFR 1.18(e) are not required, provided that the patentee's sole basis for requesting recalculation of the PTA in the patent is the USPTO's pre-*Wyeth* interpretation of 35 U.S.C. 154(b)(2)(A) and this form is filed within 180 days of the day the patent was granted.
- 2. For patents issued on or after March 2, 2010 (do not use this form):** Patentees seeking a revised PTA in a patent issued on or after March 2, 2010, must file a request for reconsideration under 37 CFR 1.705(d) that complies with the requirements of 37 CFR 1.705(b)(1) and (b)(2) within two months of the day the patent issued.

For more information, see "Notice Concerning Calculation of the Patent Term Adjustment With Respect to the Overlapping Delay Provision of 35 U.S.C. 154(b)(2)(A)" available on the USPTO Web site at <http://www.uspto.gov/patents/law/notices/2010.jsp>.

**Wyeth v. Kappos*, No. 2009-1120 (Fed. Cir., Jan. 7, 2010).

Privacy Act Statement

The **Privacy Act of 1974 (P.L. 93-579)** requires that you be given certain information in connection with your submission of the attached form related to a patent application or patent. Accordingly, pursuant to the requirements of the Act, please be advised that: (1) the general authority for the collection of this information is 35 U.S.C. 2(b)(2); (2) furnishing of the information solicited is voluntary; and (3) the principal purpose for which the information is used by the U.S. Patent and Trademark Office is to process and/or examine your submission related to a patent application or patent. If you do not furnish the requested information, the U.S. Patent and Trademark Office may not be able to process and/or examine your submission, which may result in termination of proceedings or abandonment of the application or expiration of the patent.

The information provided by you in this form will be subject to the following routine uses:

1. The information on this form will be treated confidentially to the extent allowed under the Freedom of Information Act (5 U.S.C. 552) and the Privacy Act (5 U.S.C. 552a). Records from this system of records may be disclosed to the Department of Justice to determine whether disclosure of these records is required by the Freedom of Information Act.
2. A record from this system of records may be disclosed, as a routine use, in the course of presenting evidence to a court, magistrate, or administrative tribunal, including disclosures to opposing counsel in the course of settlement negotiations.
3. A record in this system of records may be disclosed, as a routine use, to a Member of Congress submitting a request involving an individual, to whom the record pertains, when the individual has requested assistance from the Member with respect to the subject matter of the record.
4. A record in this system of records may be disclosed, as a routine use, to a contractor of the Agency having need for the information in order to perform a contract. Recipients of information shall be required to comply with the requirements of the Privacy Act of 1974, as amended, pursuant to 5 U.S.C. 552a(m).
5. A record related to an International Application filed under the Patent Cooperation Treaty in this system of records may be disclosed, as a routine use, to the International Bureau of the World Intellectual Property Organization, pursuant to the Patent Cooperation Treaty.
6. A record in this system of records may be disclosed, as a routine use, to another federal agency for purposes of National Security review (35 U.S.C. 181) and for review pursuant to the Atomic Energy Act (42 U.S.C. 218(c)).
7. A record from this system of records may be disclosed, as a routine use, to the Administrator, General Services, or his/her designee, during an inspection of records conducted by GSA as part of that agency's responsibility to recommend improvements in records management practices and programs, under authority of 44 U.S.C. 2904 and 2906. Such disclosure shall be made in accordance with the GSA regulations governing inspection of records for this purpose, and any other relevant (*i.e.*, GSA or Commerce) directive. Such disclosure shall not be used to make determinations about individuals.
8. A record from this system of records may be disclosed, as a routine use, to the public after either publication of the application pursuant to 35 U.S.C. 122(b) or issuance of a patent pursuant to 35 U.S.C. 151. Further, a record may be disclosed, subject to the limitations of 37 CFR 1.14, as a routine use, to the public if the record was filed in an application which became abandoned or in which the proceedings were terminated and which application is referenced by either a published application, an application open to public inspection or an issued patent.
9. A record from this system of records may be disclosed, as a routine use, to a Federal, State, or local law enforcement agency, if the USPTO becomes aware of a violation or potential violation of law or regulation.



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CROCKETT & CROCKETT, P.C.
26020 ACERO
SUITE 200
MISSION VIEJO, CA 92691

Mail Date: 08/12/2010

Applicant	: Jimmie Kert	: DECISION ON REQUEST FOR
Patent Number	: 7665991	: RECALCULATION of PATENT
Issue Date	: 02/23/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/439,622	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **270** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 2/10/2011 Paper No.:
TO SPE OF : ART UNIT 1425 *CofC mailroom date:*
SUBJECT : Request for Certificate of Correction for Appl. No.: 11/439671 Patent No.: 7759363B2

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580

Virginia Tolbert
Certificates of Correction Branch
571-272-0460

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Janet L. Andres/

1625



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Innovation Counsel, LLP
21771 Stevens Creek Blvd
Ste. 200A
Cupertino, CA 95014

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AUG 11 2011

OFFICE OF PETITIONS

In re Patent No. 7,898,621
Issue Date: March 1, 2011
Application No. 11/439,761
Filed: May 23, 2006
Patentee(s): Sin-Doo Lee, et. al.

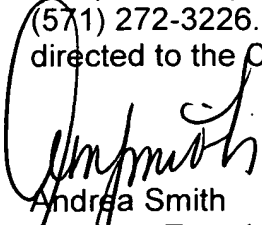
ON PETITION

This is a decision on the request under 37 CFR 3.81(b) filed May 4, 2011, to correct the assignee data and to add the name of an additional assignee on the front page of the above-identified patent by way of a Certificate of Correction.

Since the present request complies with the requirements of 37 CFR 3.81(b), the request is **GRANTED**.

The Certificates of Correction Branch will be notified of this decision granting the petition under 37 CFR 3.81(b) and for issuance of the requested Certificate of Correction.

Telephone inquiries concerning this decision may be directed to the undersigned at (571) 272-3226. Inquiries regarding the issuance of a Certificate of Correction should be directed to the Certificates of Correction Branch at (571) 272-4200.


Andrea Smith
Petitions Examiner
Office of Petitions



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OCT 29 2010

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MCANDREWS HELD & MALLOY, LTD
500 WEST MADISON STREET
SUITE 3400
CHICAGO IL 60661

In re Application of :
Grushkevich :
Application No. 11/439,776 : ON APPLICATION FOR
Filed: May 24, 2006 : PATENT TERM ADJUSTMENT
Atty Docket No. 17141US01

This is in response to the "APPLICATION FOR RECONSIDERATION OF THE DETERMINATION OF PATENT TERM ADJUSTMENT UNDER 35 USC 154(b) ACCOMPANYING THE NOTICE OF ALLOWANCE (37 CFR § 1.705)", filed October 13, 2010, which is properly treated under 37 C.F.R. § 1.705(b). Applicants submit that the patent term adjustment to be indicated on the patent is eight hundred and fifty-nine (859) days, not five hundred and eighty-nine (589) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE**.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent (or even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

It is noted that any period of adjustment will be entered in light of 35 U.S.C. 154(B) GUARANTEE OF NO MORE THAN 3-YEAR APPLICATION PENDENCY, which provides that:

Subject to the limitations under paragraph (2), if the issue of an original patent is delayed due to the failure of the United States Patent and Trademark Office to issue a patent within 3 years after the actual filing date of the application in the United States, not including -

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

(i) any time consumed by continued examination of the application requested by the applicant under section 132(b);

It is further noted that a Request for Continued Examination (RCE) was filed in this application on February 18, 2010.

The Office is in receipt of the 200.00 for the fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b).

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned (571) 272-3222.

/Kenya A. McLaughlin/

Kenya A. McLaughlin
Senior Petitions Attorney
Office of Petitions



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TRANSTECH PHARMA, INC.
4170 MENDENHALL OAKS PKWY
HIGH POINT NC 27265

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SEP 07 2010

In re Application

Lau, et al.

Application No. 11/439,820

Filed: May 24, 2006

Dkt. No.: 6694.204-US

OFFICE OF PETITIONS

:
:
: PATENT TERM ADJUSTMENT
:
:

This is in response to the "Petition for Patent Term Adjustment Indicated in Notice of Allowance," filed July 8, 2010. This matter is being properly treated under 37 CFR 1.705(b).

Applicants submit that the correct patent term adjustment to be indicated on the patent is 374 days, not 59 days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicants request this correction on the basis that the Office will take in excess of three years to issue this patent and on the basis that the Office neglected to assess a reduction of two days in connection with the April 9, 2010 submission.

This matter is being properly treated under 37 CFR 1.705(b) as an application for patent term adjustment.

37 CFR 1.702(b)

Insofar as the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is DISMISSED as PREMATURE.

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See, § 1.702(b). (This is true even where a request for continued examination (RCE) was filed). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent based on the initial determination of patent term adjustment and a projected issuance date of the patent (or

even the filing date of the request for continued examination) is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Applicant is advised that they may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and **must** include payment of the required fee under 37 CFR 1.18(e).

37 CFR 1.704(c)(8)

Applicants further assert that the Office neglected to assess a two day reduction in connection with the April 9, 2010 submission.

Applicant's argument has been carefully considered and found persuasive. A request for continued examination was filed April 7, 2010. Thereafter, on April 9, 2010, a further submission was filed. Thus, in accordance with 37 CFR 1.704(c)(8), the adjustment is subject to further reduction of two days. The reduction commenced April 8, 2010 and ended April 9, 2010.

In view thereof, the request to accord the application an additional patent term reduction of two days is **GRANTED**.

CONCLUSION

Accordingly, as of the time of allowance, the application is entitled to an overall patent term adjustment of 57 days (adjustment of 295 days less reduction of 238 days).

¹ For example, if applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the §1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

The required patent term adjustment application fee of \$200.00 has been charged to applicants' deposit account, as authorized. See, 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3205.

/ALESIA M. BROWN/

Alesia M. Brown
Petitions Attorney
Office of Petitions

Enclosure: Adjusted PAIR Calculation

Day : Sunday
Date: 8/29/2010

PALM INTRANET

Time: 15:51:54

PTA Calculations for Application: 11/439820

Application Filing Date:	05/24/2006	PTO Delay (PTO):	295
Issue Date of Patent:		Three Years:	0
Pre-Issue Petitions:	0	Applicant Delay (APPL):	236
Post-Issue Petitions:	0	Total PTA (days):	57
PTO Delay Adjustment:	-2		

File Contents History

Number	Date	Contents Description	PTO	APPL	START
75	08/29/2010	ADJUSTMENT OF PTA CALCULATION BY PTO		2	
62	04/15/2010	MAIL NOTICE OF ALLOWANCE			
61	04/15/2010	ISSUE REVISION COMPLETED			
60	04/15/2010	DOCUMENT VERIFICATION			
59	04/15/2010	NOTICE OF ALLOWANCE DATA VERIFICATION COMPLETED			
58	04/15/2010	CASE DOCKETED TO EXAMINER IN GAU			
57	04/14/2010	EXAMINER'S AMENDMENT COMMUNICATION			
56	04/14/2010	NOTICE OF ALLOWABILITY			
55	04/12/2010	EXAMINER INTERVIEW SUMMARY RECORD (PTOL - 413)			
49	04/08/2010	DATE FORWARDED TO EXAMINER			
48	04/07/2010	AMENDMENT SUBMITTED/ENTERED WITH FILING OF CPA/RCE			
46	04/08/2010	DISPOSAL FOR A RCE / CPA / R129			
45	04/07/2010	REQUEST FOR EXTENSION OF TIME - GRANTED			
44	04/07/2010	WORKFLOW - REQUEST FOR RCE - BEGIN			
43	01/18/2010	NOTICE OF APPEAL FILED		87	35
42	01/18/2010	REQUEST FOR EXTENSION OF TIME - GRANTED			
41	02/04/2010	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
40	02/02/2010	CORRESPONDENCE ADDRESS CHANGE			
39	11/18/2009	CHANGE IN POWER OF ATTORNEY (MAY INCLUDE ASSOCIATE POA)			
38	11/16/2009	CORRESPONDENCE ADDRESS CHANGE			
37	07/23/2009	ELECTRONIC REVIEW			
36	07/23/2009	EMAIL NOTIFICATION			

35	07/23/2009	MAIL FINAL REJECTION (PTOL - 326)			
34	07/20/2009	FINAL REJECTION			
33	06/15/2009	DATE FORWARDED TO EXAMINER			
32	05/11/2009	RESPONSE AFTER NON-FINAL ACTION		90	28
31	05/11/2009	REQUEST FOR EXTENSION OF TIME - GRANTED			
30	11/10/2008	ELECTRONIC REVIEW			
29	11/10/2008	EMAIL NOTIFICATION			
28	11/10/2008	MAIL NON-FINAL REJECTION			
27	11/06/2008	NON-FINAL REJECTION			
26	09/25/2006	INFORMATION DISCLOSURE STATEMENT CONSIDERED			
25	10/09/2008	DATE FORWARDED TO EXAMINER			
24	09/15/2008	RESPONSE TO ELECTION / RESTRICTION FILED		32	20
23	09/15/2008	REQUEST FOR EXTENSION OF TIME - GRANTED			
22	05/15/2008	ELECTRONIC REVIEW			
21	05/14/2008	EMAIL NOTIFICATION			
20	05/14/2008	MAIL RESTRICTION REQUIREMENT	295		-1
19	05/09/2008	REQUIREMENT FOR RESTRICTION / ELECTION			
18	02/01/2007	PG-PUB ISSUE NOTIFICATION			
17	01/09/2007	CASE DOCKETED TO EXAMINER IN GAU			
16	11/06/2006	IFW TSS PROCESSING BY TECH CENTER COMPLETE			
15	10/13/2006	REQUEST FOR FOREIGN PRIORITY (PRIORITY PAPERS MAY BE INCLUDED)			
14.7	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
14	09/25/2006	INFORMATION DISCLOSURE STATEMENT (IDS) FILED			
13	10/24/2006	APPLICATION RETURN FROM OIPE			
12	10/24/2006	APPLICATION RETURN TO OIPE			
11	10/24/2006	APPLICATION DISPATCHED FROM OIPE			
10	10/24/2006	APPLICATION IS NOW COMPLETE			
9	10/13/2006	ADDITIONAL APPLICATION FILING FEES		27	7
8	10/13/2006	A STATEMENT BY ONE OR MORE INVENTORS SATISFYING THE REQUIREMENT UNDER 35 USC 115, OATH OF THE APPLIC			
7	06/16/2006	NOTICE MAILED--APPLICATION INCOMPLETE-- FILING DATE ASSIGNED			
5	06/06/2006	CLEARED BY L&R (LARS)			

4	06/01/2006	REFERRED TO LEVEL 2 (LARS) BY OIPE CSR			
3	06/01/2006	CASE CLASSIFIED BY OIPE			
2	05/31/2006	IFW SCAN & PACR AUTO SECURITY REVIEW			
1	05/24/2006	INITIAL EXAM TEAM NN			

Search Another: Application#

EXPLANATION OF PTA CALCULATION

EXPLANATION OF PTE CALCULATION

To go back, right click here and select Back. To go forward, right click here and select Forward. To refresh, right click here and select Refresh.

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Doc Code: PET.AUTO Document Description: Petition automatically granted by EFS-Web		PTO/SB/64a U.S. Patent and Trademark Office Department of Commerce
Electronic Petition Request	PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED FOR FAILURE TO NOTIFY THE OFFICE OF A FOREIGN OR INTERNATIONAL FILING UNDER 37 CFR 1.137(f)	
Application Number	11439877	
Filing Date	24-May-2006	
First Named Inventor	Delman Hogen	
Art Unit	1657	
Examiner Name	HERBERT LILLING	
Attorney Docket Number	C47.2B-13120-US01	
Title	PROCESS FOR PRODUCING ETHYL ALCOHOL FROM CELLULOSIC MATERIALS	
<p>The above-identified application became abandoned pursuant to 35 U.S.C. 122(b)(2)(B)(iii) for failure to timely notify the Office of the filing of an application in a foreign country or under a multinational treaty that requires publication of applications eighteen months after filing. The date of abandonment is the day after the expiration date of the forty-five (45) day period set in 35 U.S.C. 122(b)(2)(B)(iii).</p> <p>PURSUANT TO 37 CFR 1.137(f), APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION UNDER 37 CFR 1.137(b).</p> <p>A grantable petition requires the following items: (1) Petition fee; (2) Reply; (3) Statement that the entire delay was unintentional.</p>		
<p>Petition fee The petition fee under 37CFR 1.17(m) is attached.</p> <p><input type="checkbox"/> Applicant claims SMALL ENTITY status. See 37 CFR 1.27.</p> <p><input type="checkbox"/> Applicant is no longer claiming SMALL ENTITY status. See 37 CFR 1.27(g)(2).</p> <p><input checked="" type="checkbox"/> Applicant(s) status remains as SMALL ENTITY.</p> <p><input type="checkbox"/> Applicant(s) status remains as other than SMALL ENTITY.</p>		
<p>Notice of Foreign or International Filing (35 U.S.C. 122(b)(2)(B)(iii) and 37 CFR 1.213(c)) Subsequent to the filing of the above-identified application, an application was filed in another country, or under a multinational international treaty (e.g., filed under the Patent Cooperation Treaty), that requires publication of applications eighteen months after the filing. The filing date of the subsequently filed foreign or international application is 11-13-2008</p> <p><input checked="" type="checkbox"/> The non-publication request has been filed on 24-May-2006</p>		

☒ STATEMENT: The entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

THIS PORTION MUST BE COMPLETED BY THE SIGNATORY OR SIGNATORIES

I certify, in accordance with 37 CFR 1.4(d)(4) that I am:

- ☒ An attorney or agent registered to practice before the Patent and Trademark Office who has been given power of attorney in this application.
- ☐ An attorney or agent registered to practice before the Patent and Trademark Office, acting in a representative capacity.
- ☐ A sole inventor
- ☐ A joint inventor; I certify that I am authorized to sign this submission on behalf of all of the inventors.
- ☐ A joint inventor; all of whom are signing this e-petition.
- ☐ The assignee of record of the entire interest that has properly made itself of record pursuant to 37 CFR 3.71.

Signature	/Lisa Ryan-Lindquist/
Name	Lisa Ryan-Lindquist
Registration Number	43071



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Decision Date : December 8, 2011

In re Application of :

DECISION ON PETITION

Delman Hogen

Application No : 11439877

Filed : 24-May-2006

Attorney Docket No : C47.2B-13120-US01

This is an electronic decision on the petition, filed December 8, 2011, which is being treated as a petition under 37 CFR 1.137(b) to revive the instant nonprovisional application for failure to timely notify the U.S. Patent and Trademark Office (USPTO) of the filing of an application in a foreign country, or under a multinational treaty that requires publication of applications eighteen months after filing. See 37 CFR 1.137(f).

The petition is **GRANTED**.

Petitioner states that the present nonprovisional application is the subject of a foreign or international application filed on

11-13-2008

However, the USPTO was unintentionally not notified of this filing within 45 days subsequent to the filing of the subject application in a foreign country.

In view of the above, this application became abandoned pursuant to 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) for failure to timely notify the Office of the filing of an application in a foreign country, or under a multilateral international agreement that requires publication of applications 18 months after filing.

A petition under 37 CFR 1.137(f) must be accompanied by:

- (1) the reply which is met by the notification of such filing in a foreign country or under a multinational treaty;
- (2) the petition fee as set forth in 37 CFR 1.17(m); and
- (3) a statement that the entire delay in filing the required notice of a foreign or international filing from the due date for the required notice until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional.

The instant petition has been found to be in compliance with 37 CFR 1.137(b). Accordingly, the failure to timely notify the USPTO of a foreign or international filing within 45 days after the date of filing of such foreign or international application as provided by 35 U.S.C. § 122(b)(2)(B)(iii) and 37 CFR 1.213(c) is accepted as having been unintentionally delayed.

The previous Request and Certification under 35 U.S.C. § 122(b)(2)(B)(i) has been rescinded. A Notice Regarding Rescission of Nonpublication Request which sets forth the projected publication date will be viewable in Private PAIR within one (1) business day.

This application file is being directed to the Office of Data Management.

Telephone inquiries concerning this decision should be directed to the Patent Electronic Business Center (EBC) at 866-217-9197.

Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

NIXON & VANDERHYE, PC
901 NORTH GLEBE ROAD, 11TH FLOOR
ARLINGTON VA 22303

MAILED

OCT 12 2010

OFFICE OF PETITIONS

In re Patent No. 7,571,659

Issue Date: August 11, 2009

Application No. 11/440,055

Filed: May 25, 2006

Attorney Docket No. 249-432 (AMK)

NOTICE

This is a notice regarding your request for acceptance of a fee deficiency submission under 37 CFR 1.28 on July 30, 2010.

The Office no longer investigates or rejects original or reissue patent under 37 CFR 1.56. **1098 Off. Gaz. Pat. Office 502 (January 3, 1989)**. Therefore, nothing in this Notice is intended to imply that an investigation was done.

Your fee deficiency submission under 37 CFR 1.28 is hereby **ACCEPTED**.

This patent is no longer entitled to small entity status. Accordingly, all future fees paid in this patent must be paid at the large entity rate.

Inquiries related to this communication should be directed to the undersigned at (571) 272-3208.

/KOC/

Karen Creasy

Petitions Examiner

Office of Petitions



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P.O. BOX 1022
MINNEAPOLIS MN 55440-1022

MAILED

SEP 14 2010

OFFICE OF PETITIONS

ON PETITION

In re Application of :
Shah, Shalin N. :
Application No. 11/440,062 :
Filed: May 25, 2006 :
Attorney Docket No. 29718-0002001 :

This is a decision on the petition under 37 C.F.R. § 1.137(b), filed August 26, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and a Reply to Action of April 24, 2009, including amendments, (2) the petition fee of \$810.00, and (3) a proper statement of unintentional delay.

As the Power of Attorney was only recently given to the petitioner, it is not apparent whether the statement of unintentional delay was signed by a person who would have been in a position of knowing that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. Nevertheless, in accordance with 37 CFR 10.18, the statement is accepted as constituting a certification of unintentional delay. However, in the event that petitioner has no knowledge that the delay was unintentional, petitioner must make such an inquiry to ascertain that, in fact, the delay was unintentional. If petitioner discovers that the delay was intentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206.

This matter is being referred to Technology Center Au 3764 for processing of the Request for Continued Examination under 37 CFR 1.114 filed concurrently with the instant petition.

Liana Walsh
Petitions Examiner
Office of Petitions



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**STEIN MCEWEN, LLP
1400 EYE STREET, NW
SUITE 300
WASHINGTON DC 20005**

MAILED

DEC 28 2010

OFFICE OF PETITIONS

In re Application of :
Youngtack SHIM :
Application No. 11/440,135 : **DECISION ON PETITION**
Filed: May 25, 2006 :
Docket No.0230.1001 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed November 30, 2010, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a timely manner to the non-final Office action mailed, March 30, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on July 1, 2010.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment, (2) the petition fee of \$810; and (3) and the required statement of unintentional delay.

It is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure; Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due

date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-6735.

This application is being referred to Technology Center AU 2614 for appropriate action by the Examiner in the normal course of business.

/Diane C. Goodwyn/
Diane C. Goodwyn
Petitions Examiner
Office of Petitions



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UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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CARLSON, GASKEY & OLDS, P.C.
400 WEST MAPLE ROAD
SUITE 350
BIRMINGHAM, MI 48009

Mail Date: 08/05/2010

Applicant	: Kon-King M. Wang	: DECISION ON REQUEST FOR
Patent Number	: 7656059	: RECALCULATION of PATENT
Issue Date	: 02/02/2010	: TERM ADJUSTMENT IN VIEW
Application No	: 11/440,219	: OF WYETH AND NOTICE OF INTENT TO
Filed	: 05/23/2006	: ISSUE CERTIFICATE OF CORRECTION
		:

The Request for Recalculation is **GRANTED** to the extent indicated.

The patent term adjustment has been determined to be **565** days. The USPTO will *sua sponte* issue a certificate of correction reflecting the amount of PTA days determined by the recalculation.

Prior to the issuance of the certificate of correction, the USPTO will afford patentee an opportunity to be heard and request reconsideration. Accordingly, patentee has **one month or thirty (30) days**, whichever is longer, to file a request for reconsideration of this patent term adjustment calculation. See 35 U.S.C. 154(b)(3)(B)(ii) and 37 CFR 1.322(a)(4). No extensions of time will be granted under 37 CFR 1.136.

Patentee should use document code PET.OP if electronically filing a request for reconsideration of this patent term adjustment calculation. The patentee must also include the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e). If patentee does not file a timely request for reconsideration of this patent term adjustment calculation including the information required by 37 CFR 1.705(b)(2) and the fee required by 37 CFR 1.18(e), the USPTO will issue a certificate of correction reflecting the PTA determination noted above.

Patentee should be aware that in order to preserve the right to review in the United States District Court for the District of Columbia of the USPTO patent term adjustment determination, patentee must ensure that he or she also take the steps required under 35 U.S.C. 154(b)(4)(A) in a timely manner. Nothing in the request for recalculation should be construed as providing an alternative time frame for commencing a civil action under 35 U.S.C. 154(b)(4)(A).

Any questions concerning this decision should be directed to the Office of Patent Legal Administration at 571-272-7702.



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Paper No.

GOLD & RIZVI, P.A.
11575 Heron Bay Blvd.
SUITE 309
Coral Springs FL 33076

MAILED
MAY 10 2011
OFFICE OF PETITIONS

In re Application of :
Theresa Luz Ukaj : DECISION ON PETITION
Application No. 11/440,281 :
Filed: May 24, 2006 :
Attorney Docket No. 1305.0200 :

This is a decision on the "Petition Under 37 CFR 1.182: Inventor Changes Name," filed April 13, 2011.

Petitioner states that inventor "Tereze Ukaj" has changed her name to "Theresa Luz Ukaj," by court order granted September 16, 2008. Petitioner submitted a petition fee of \$400. The petition includes a copy of the court order. The petition was filed prior to payment of the issue fee (on the following day). The petition also includes a supplemental application data sheet, showing the new name.

MPEP 605.04(c) provides that:

In cases where an inventor's name has been changed after the application has been filed and the inventor desires to change his or her name on the application, he or she must submit a petition under 37 CFR 1.182. Applicants are also strongly encouraged to submit an application data sheet (37 CFR 1.76) showing the new name. The petition should be directed to the attention of the Office of Petitions. The petition must include an appropriate petition fee and a statement signed by the inventor setting forth both names and the procedure whereby the change of name was effected, or a copy of the court order.

The instant petition meets the requirements of MPEP 605.04(c).

Accordingly, the petition is GRANTED.


The inventor's name is changed in the records of the Office to Theresa Luz Ukaj.

It is noted that a review of the application revealed that the declaration filed May 24, 2006 is defective. Specifically, the declaration does not satisfy the statutory requirement that the citizenship of the inventor be stated on the declaration. Rather, the inventor provided her INS identification number. A supplemental declaration correcting this error should be filed.

It is further noted that it is unnecessary to put in the patent records information such as a copy of the inventor's passport, especially as the patent will be open to the public.

The Office of Data Management has been advised of this decision. The application is thereby forwarded to the Office of Data Management for processing into a patent.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3219.

A handwritten signature in black ink, appearing to read "Nancy Johnson". The signature is fluid and cursive, with the first name "Nancy" written in a larger, more prominent script than the last name "Johnson".

Nancy Johnson
Senior Petitions Attorney
Office of Petitions



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MAILED
AUG 18 2010
OFFICE OF PETITIONS

In re Application of :
Damian Fiolka, et al. :
Application No.: 11/440,479 : **ON PETITION**
Filed: May 25, 2006 :
Attorney Docket No.: 20228-015001 / 06 183 :

This is a decision on the petition, filed August 17, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on July 19, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2872 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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MAILED
OCT 27 2010
OFFICE OF PETITIONS

In re Application of :
Damian Fiolka, et al. :
Application No.: 11/440,479 : **ON PETITION**
Filed: May 25 2006 :
Attorney Docket No.: 20228-015001 / 06 183 :

This is a decision on the petition, filed October 26, 2010, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on September 27, 2010, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2872 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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FEB 14 2011

OFFICE OF PETITIONS

In re Application of :
Damian Fiolka, et al. :
Application No.: 11/440,479 :
Filed: May 25, 2006 :
Attorney Docket No.: 20228-025002/06 183 :

ON PETITION

This is a decision on the petition, filed February 11, 2011, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 18, 2011, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2872 for further processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed amendment.

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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MINNEAPOLIS, MN 55440-1022

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FEB 01 2012

OFFICE OF PETITIONS

In re Application of :
Damian Fiolka, et al. :
Application No.: 11/440,479 : **ON PETITION**
Filed: May 25, 2006 :
Attorney Docket No.: 20228-015001 / 06 183 :

This is a decision on the petition, filed January 31, 2012, under 37 CFR 1.313(c)(2) to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on January 12, 2012, cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries relating to this decision should be directed to the undersigned at (571) 272-3204.

The application is being referred to Technology Center AU 2872 for further processing of the request for continued examination and for consideration of the concurrently filed Information Disclosure Statement (IDS).

/SDB/

Sherry D. Brinkley
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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KILPATRICK, TOWNSEND & STOCKTON, LLP
1100 PEACHTREE STREET
SUITE 2800
ATLANTA, GA 30309

MAILED
MAR 29 2011
OFFICE OF PETITIONS

In re Application of :
Christopher James Leatt :
Application No. 11/440,576 : DECISION GRANTING PETITION
Filed: May 25, 2006 : UNDER 37 CFR 1.313(c)(2)
Attorney Docket No. 62366-392983 :

This is a decision on the petition under 37 CFR 1.313(c)(2), filed March 28, 2011, to withdraw the above-identified application from issue after payment of the issue fee.

The petition is **GRANTED**.

The above-identified application is withdrawn from issue for consideration of a submission under 37 CFR 1.114 (request for continued examination). See 37 CFR 1.313(c)(2).

Petitioner is advised that the issue fee paid on February 28, 2011 cannot be refunded. If, however, this application is again allowed, petitioner may request that it be applied towards the issue fee required by the new Notice of Allowance.¹

Telephone inquiries regarding this decision should be directed to undersigned at (571) 272-1642. All other inquiries concerning the examination or status of this application should be directed to the Technology Center.

This application is being referred to Technology Center AU 3772 for processing of the request for continued examination under 37 CFR 1.114 and for consideration of the concurrently filed information disclosure statement.

/AMW/
April M. Wise
Petitions Examiner
Office of Petitions

¹ The request to apply the issue fee to the new Notice may be satisfied by completing and returning the new Part B – Fee(s) Transmittal Form (along with any balance due at the time of submission). Petitioner is advised that the Issue Fee Transmittal Form must be completed and timely submitted to avoid abandonment of the application.



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DEC 02 2010

OFFICE OF PETITIONS

Stanford University Office of Technology Licensing
Bozicevic, Field & Francis LLP
1900 University Avenue
Suite 200
East Palo Alto CA 94303

In re Application of :
ELAD BENJAMIN ET AL. :
Application No. 11/440,698 : **DECISION ON PETITION**
Filed: May 24, 2006 :
Attorney Docket No. STAN-476 (S05-077) :

This is a decision on the petition, filed June 11, 2010, which is being treated as a petition under 37 CFR 1.181 (no fee) requesting withdrawal of the holding of abandonment in the above-identified application.

The petition is **DISMISSED**.

Any request for reconsideration of this decision should be submitted within two (2) months from the mail date of this decision and be entitled "Renewed Petition to Withdraw the Holding of Abandonment under 37 CFR 1.181." See 37 CFR 1.181(f).

This application was held abandoned for failure to timely file an appeal brief (and fee required by 37 CFR 41.20(b)(2)) within the time period provided in 37 CFR 41.37(a)(1). A Notice of Abandonment was mailed on June 8, 2010.

Petitioner contends that the Notice of Abandonment was mailed in error since the time period for filing an Appeal Brief had not expired.

Petitioner should note that the instant application remains abandoned as an appeal brief (and appeal brief fee) has not been filed to date. Therefore, the requested relief of withdrawing the holding of abandonment cannot be granted, although the Notice of Abandonment was mailed prematurely.

ALTERNATIVE VENUE

Petitioner is strongly encouraged to consider filing a petition under 37 CFR 1.137(b) to revive an unintentionally abandoned application instead of filing a renewed petition under 37 CFR 1.181 or a petition under 37 CFR 1.137(a).

A grantable petition pursuant to 37 CFR 1.137(b) must be accompanied by:

- (1) The reply required to the outstanding Office action or notice, unless previously filed. In nonprovisional utility application abandoned for failure to respond to a non-final Office action, the required reply may be met by filing either (A) an argument or amendment under 37 CFR 1.111 or (B) a continuing application under 37 CFR 1.53(b).
- (2) The petition fee as set forth in 37 CFR 1.17(m), **\$810 for a small entity**;
- (3) A statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional. The Director may require additional information where there is a question whether the delay was unintentional.

A form for filing a petition to revive an unintentionally abandoned application accompanies this decision for petitioner's convenience. If petitioner desires to file a petition under 37 CFR 1.137(b) instead of filing a request for reconsideration, petitioner must complete the enclosed petition form (PTO/SB/64) and pay the \$810 petition fee.

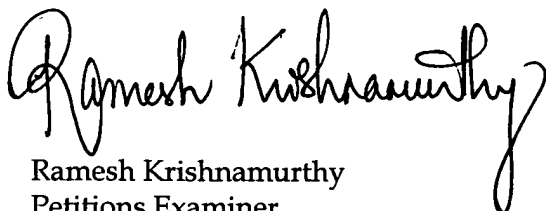
Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop Petition
 Commissioner for Patents
 P.O. Box 1450
 Alexandria, VA 22313-1450

By FAX: (571) 273-8300
 Attn: Office of Petitions

By hand: Customer Service Window
 Randolph Building
 401 Dulany Street
 Alexandria, VA 22314

Telephone inquiries related to this decision may be directed to the JoAnne Burke at (571) 272-4584.



Ramesh Krishnamurthy
Petitions Examiner
Office of Petitions

Enclosures: Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b); Form PTO/SB/64, Privacy Act Statement



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FOLEY & LARDNER LLP
150 EAST GILMAN STREET
P.O. BOX 1497
MADISON WI 53701-1497

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NOV 04 2010

OFFICE OF PETITIONS

In re Application of	:	
Eikkula	:	
Application No. 11/440,704	:	ON APPLICATION FOR
Filed: May 24, 2006	:	PATENT TERM ADJUSTMENT
Atty Docket No. 088245-1498	:	

This is in response to the REQUEST FOR RECONSIDERATION OF PATENT TERM ADJUSTMENT FOR PATENT APPLICATION UNDER 37 C.F.R. § 1.705(b), filed September 21, 2010. Applicant submits that the correct patent term adjustment to be indicated on the patent is one thousand two hundred twenty-eight (1228) days, not eight hundred twenty-one (821) days as calculated by the Office as of the mailing of the initial determination of patent term adjustment. Applicant requests this correction solely on the basis that the Office will take in excess of three years to issue this patent.

As the instant application for patent term adjustment requests reconsideration of the patent term adjustment as it relates to the Office's failure to issue the patent within 3 years of the filing date, the application for patent term adjustment under 37 CFR 1.705(b) is **DISMISSED as PREMATURE.**

Knowledge of the actual date the patent issues is required to calculate the amount, if any, of additional patent term patentee is entitled to for Office failure to issue the patent within 3 years. See § 1.702(b). The computer will not undertake the § 1.702(b) calculation until the actual date of issuance of the patent has been determined. Likewise, the computer will not calculate any further Office delay under § 1.702(a)(4) or applicant delay under § 1.704(c)(10) until the actual date of issuance of the patent has been determined. As such, the Office can not make a determination on the correctness of the patent term adjustment until the patent has issued.

Requesting reconsideration of the patent term adjustment to be indicated on the patent under 37 CFR 1.705(b) based on the initial determination of patent term adjustment and a projected issuance date of the patent is premature. Accordingly, it is appropriate to dismiss as premature such a request.

Rather than file an application for patent term adjustment under 37 CFR 1.705(b) contesting the 37 CFR 1.702(b) calculation at the time of the mailing of the notice of allowance, applicant is advised that he may wait until the time of the issuance of the patent and file a request for reconsideration of the patent term adjustment pursuant to 37 CFR 1.705(d). As the USPTO does not calculate the amount of time earned pursuant to 37 CFR 1.702(b) until the time of the issuance of the patent, the Office will consider any request for reconsideration of the patent term adjustment due to an error in the calculation of 37 CFR 1.702(b) to be timely if the request for reconsideration is filed within two months of the issuance of the patent. However, as to all other bases for contesting the initial determination of patent term adjustment received with the notice of allowance, applicant must timely file an application for patent term adjustment prior to the payment of the issue fee¹.


The Office acknowledges submission of the \$200.00 fee set forth in 37 CFR 1.18(e) for consideration of the application for patent term adjustment under 37 CFR 1.705(b). This fee is required and will not be refunded.

Any request for reconsideration of the patent term adjustment indicated on the patent must be timely filed within 2 months after issuance pursuant to 37 CFR 1.705(d) and must include payment of the required fee under 37 CFR 1.18(e).

The Office of Data Management has been advised of this decision. This application is being referred to the Office of Data Management for issuance of the patent.

¹ For example, if an applicant disputes both the calculation of patent term adjustment under 37 CFR 1.702(a)(1) for Office failure to mail a first Office action or notice of allowance not later than fourteen months after the date on which the application was filed and under 37 CFR 1.702(b) for Office failure to issue a patent within three years of the actual filing date of the application, then applicant must still timely file an application for patent term adjustment prior to the payment of the issue fee to contest the calculation of Office delay in issuing a first Office action or notice of allowance. See 37 CFR 1.705(b) and 35 U.S.C. 154(b)(3)(B). A dispute as to the calculation of the 37 CFR 1.702(a)(1) period raised on request for reconsideration of patent term adjustment under 37 CFR 1.705(d) will be dismissed as untimely filed.

Telephone inquiries specific to this decision should be directed to the undersigned at (571) 272-3230.


Shirene Willis Brantley
Senior Petitions Attorney
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO CA 92121

MAILED

NOV 05 2010

OFFICE OF PETITIONS

In re Application of
Jung Hyeon PARK et al.
Application No. 11/440,829
Filed: May 24, 2006
Attorney Docket No. 071727

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:
:

DECISION ON PETITION

This is a decision on the petition filed June 09, 2010, for correction of Office records and a corrected filing receipt.

The petition is **GRANTED**.

Petitioner asserts that only two pages of the original declaration has been recorded showing only one inventor, rather than the three original pages filed showing that there are three inventors. As evidence petitioner has provided the Office with a copy of the originally filed Declaration and POA, and copy of the U.S. PTO Stamped Return Receipt Post Card dated May 25, 2006.

In view of the petition, the Office records have been updated to reflect that there are three inventors. A corrected Filing Receipt, which includes all of the inventors, is accompanied with this decision.

Telephone inquiries regarding this decision should be directed to the Michelle R. Eason at (571) 272-4231.

This application is being referred to Technology Center AU 2611 for examination in due course.

Thurman Page
Petitions Examiner
Office of Petitions

ATTACHMENT: Corrected Filing Receipt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
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Alexandria, Virginia 22313-1450
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APPLICATION NUMBER	FILING or 371(c) DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	TOT CLAIMS	IND CLAIMS
11/440,829	05/24/2006	2611	1650	071727	58	5

CONFIRMATION NO. 7666

CORRECTED FILING RECEIPT



OC000000044292176

23696
QUALCOMM INCORPORATED
5775 MOREHOUSE DR.
SAN DIEGO, CA 92121

Date Mailed: 11/02/2010

Receipt is acknowledged of this non-provisional patent application. The application will be taken up for examination in due course. Applicant will be notified as to the results of the examination. Any correspondence concerning the application must include the following identification information: the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. **If an error is noted on this Filing Receipt, please submit a written request for a Filing Receipt Correction. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections**

Applicant(s)

Jong Hyeon Park, San Jose, CA;
Ju Won Park, San Ramon, CA;
Je Woo Kim, San Jose, CA;

Assignment For Published Patent Application

TeleCIS Wireless, Inc.

Power of Attorney: The patent practitioners associated with Customer Number 23696

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted: 06/16/2006

The country code and number of your priority application, to be used for filing abroad under the Paris Convention, is **US 11/440,829**

Projected Publication Date: Not Applicable

Non-Publication Request: No

Early Publication Request: No

Title

MULTI INPUT MULTI OUTPUT (MIMO) ORTHOGONAL FREQUENCY DIVISION MULTIPLE ACCESS (OFDMA) COMMUNICATION SYSTEM

Preliminary Class

375

PROTECTING YOUR INVENTION OUTSIDE THE UNITED STATES

Since the rights granted by a U.S. patent extend only throughout the territory of the United States and have no effect in a foreign country, an inventor who wishes patent protection in another country must apply for a patent in a specific country or in regional patent offices. Applicants may wish to consider the filing of an international application under the Patent Cooperation Treaty (PCT). An international (PCT) application generally has the same effect as a regular national patent application in each PCT-member country. The PCT process **simplifies** the filing of patent applications on the same invention in member countries, but **does not result** in a grant of "an international patent" and does not eliminate the need of applicants to file additional documents and fees in countries where patent protection is desired.

Almost every country has its own patent law, and a person desiring a patent in a particular country must make an application for patent in that country in accordance with its particular laws. Since the laws of many countries differ in various respects from the patent law of the United States, applicants are advised to seek guidance from specific foreign countries to ensure that patent rights are not lost prematurely.

Applicants also are advised that in the case of inventions made in the United States, the Director of the USPTO must issue a license before applicants can apply for a patent in a foreign country. The filing of a U.S. patent application serves as a request for a foreign filing license. The application's filing receipt contains further information and guidance as to the status of applicant's license for foreign filing.

Applicants may wish to consult the USPTO booklet, "General Information Concerning Patents" (specifically, the section entitled "Treaties and Foreign Patents") for more information on timeframes and deadlines for filing foreign patent applications. The guide is available either by contacting the USPTO Contact Center at 800-786-9199, or it can be viewed on the USPTO website at <http://www.uspto.gov/web/offices/pac/doc/general/index.html>.

For information on preventing theft of your intellectual property (patents, trademarks and copyrights), you may wish to consult the U.S. Government website, <http://www.stopfakes.gov>. Part of a Department of Commerce initiative, this website includes self-help "toolkits" giving innovators guidance on how to protect intellectual property in specific countries such as China, Korea and Mexico. For questions regarding patent enforcement issues, applicants may call the U.S. Government hotline at 1-866-999-HALT (1-866-999-4158).

LICENSE FOR FOREIGN FILING UNDER

Title 35, United States Code, Section 184

Title 37, Code of Federal Regulations, 5.11 & 5.15

GRANTED

The applicant has been granted a license under 35 U.S.C. 184, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" followed by a date appears on this form. Such licenses are issued in all applications where

the conditions for issuance of a license have been met, regardless of whether or not a license may be required as set forth in 37 CFR 5.15. The scope and limitations of this license are set forth in 37 CFR 5.15(a) unless an earlier license has been issued under 37 CFR 5.15(b). The license is subject to revocation upon written notification. The date indicated is the effective date of the license, unless an earlier license of similar scope has been granted under 37 CFR 5.13 or 5.14.

This license is to be retained by the licensee and may be used at any time on or after the effective date thereof unless it is revoked. This license is automatically transferred to any related applications(s) filed under 37 CFR 1.53(d). This license is not retroactive.

The grant of a license does not in any way lessen the responsibility of a licensee for the security of the subject matter as imposed by any Government contract or the provisions of existing laws relating to espionage and the national security or the export of technical data. Licensees should apprise themselves of current regulations especially with respect to certain countries, of other agencies, particularly the Office of Defense Trade Controls, Department of State (with respect to Arms, Munitions and Implements of War (22 CFR 121-128)); the Bureau of Industry and Security, Department of Commerce (15 CFR parts 730-774); the Office of Foreign Assets Control, Department of Treasury (31 CFR Parts 500+) and the Department of Energy.

NOT GRANTED

No license under 35 U.S.C. 184 has been granted at this time, if the phrase "IF REQUIRED, FOREIGN FILING LICENSE GRANTED" DOES NOT appear on this form. Applicant may still petition for a license under 37 CFR 5.12, if a license is desired before the expiration of 6 months from the filing date of the application. If 6 months has lapsed from the filing date of this application and the licensee has not received any indication of a secrecy order under 35 U.S.C. 181, the licensee may foreign file the application pursuant to 37 CFR 5.15(b).



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February 24, 2011

Karin L. Williams
Mayer & Williams, PC
251 North Avenue West, 2nd Floor
Westfield, NJ 07090

Patent No: 7,799,237 B2
Application No: 11/440,918
Applicant: Seiji Iseda
Issued: September 21, 2010
Title: **METHOD AND APPARATUS FOR ETCHING A STRUCTURE IN A PLASMA CHAMBER**

Request for Certificate of Correction:

Consideration has been given to your request for the issuance of a certificate of correction for the above- identified patent under the provisions of Rule 1.322 or 1.323.

The error, purported to be in column 4, line 43, cannot be found in the printed patent.

In view of the foregoing your request in this matter is hereby **denied**.

Further correspondence concerning this matter should be filed and directed to Decisions & Certificates of Correction Branch.

/Virginia Tolbert/
Virginia Tolbert
For Mary Diggs, Supervisor
Decisions and Certificate of Correction
(571) 272-0460 (voice)
(571) 270-9892 (fax)

vt



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
11/441,229	05/26/2006	Naomi Balaban	CENT1140-6	9390
28213	7590	07/27/2011	EXAMINER	
DLA PIPER LLP (US)			MINNIFIELD, NITA M	
4365 EXECUTIVE DRIVE			ART UNIT	
SUITE 1100			PAPER NUMBER	
SAN DIEGO, CA 92121-2133			1645	
			MAIL DATE	DELIVERY MODE
			07/27/2011	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.



UNITED STATES PATENT AND TRADEMARK OFFICE

JUL 27 2011

Commissioner for Patents
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DLA PIPER LLP (US)
4365 EXECUTIVE DRIVE
SUITE 1100
SAN DIEGO CA 92121-2133

In re Application of:

Naomi Balaban

Serial No.: 11/441,229

Filed: May 26, 2006

Attorney Docket No.: **CENT1140-6**

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PETITION DECISION

This is in response to the petition under 37 CFR § 1.59(b), filed July 1, 2011, to expunge information from the above identified application. This application has not been allowed.

Petitioner requests that an amendment filed June 30, 2011 be expunged from the record because it was unintentionally submitted in the above-identified application. Petitioner states either: (A) that the information contains trade secret material, proprietary material and/or material that is subject to a protective order which has not been made public; or (B) that the information submitted was unintentionally submitted and the failure to obtain its return would cause irreparable harm to the party who submitted the information or to the party in interest on whose behalf the information was submitted, and the information has not otherwise been made public. The petition fee set forth in 37 CFR § 1.17(g) has been paid.

The reasons set forth in this petition establishes to the satisfaction of the Director that expungement of the information is appropriate. The file entry for this document has been closed and as such the document is no longer publicly available, which is the IFW equivalent to removal of a paper document from a paper file wrapper.

Therefore, petitioner's petition is GRANTED.

Should there be any questions about this decision please contact Marianne C. Seidel by letter addressed to Director, TC 1600, at the address listed above, or by telephone at 571-272-0584 or by facsimile sent to the general Office facsimile number, 571-273-8300.

/MC Seidel/

Marianne C. Seidel, Quality Assurance Specialist
Technology Center 1600



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DAVIDSON BERQUIST JACKSON & GOWDEY LLP
4300 WILSON BLVD., 7TH FLOOR
ARLINGTON VA 22203

MAILED

FEB 03 2012

In re Application of
Baillot
Application No. 11/441,241
Filed: May 26, 2006
Attorney Docket No. 2551-0014

OFFICE OF PETITIONS

DECISION ON PETITION

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed January 10, 2012, to revive the above-identified application.

The petition is **GRANTED**.

This above-identified application became abandoned for failure to timely file a reply to a non-final Office action mailed June 27, 2011. The Office Action set a three (3) month shortened statutory period for reply. No timely extensions of time were obtained under the provisions of 37 CFR 1.136(a). Accordingly, this application became abandoned on September 28, 2011. This decision precedes the mailing of a Notice of Abandonment.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of an amendment (2) the petition fee of \$1860.00, and (3) a statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3215.

This application is being referred to Technology Center AU 2629 for appropriate action by the Examiner in the normal course of business on the reply received

Charlema Grant
Attorney Advisor
Office of Petitions



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MINTZ, LEVIN, COHN, FERRIS, GLOVSKY AND POPEO, P.C
ONE FINANCIAL CENTER
BOSTON MA 02111

MAILED

MAR 25 2011

OFFICE OF PETITIONS

In re Patent No. 7,858,331	:
D'Andrea et al.	:
Issue Date: December 28, 2010	: DECISION ON REQUEST FOR
Application No. 11/441,289	: RECONSIDERATION OF
Filed: May 24, 2006	: PATENT TERM ADJUSTMENT
Attorney Docket No. 20363-	: AND NOTICE OF INTENT
203001US	: TO ISSUE CERTIFICATE OF
Title: COMPOSITIONS AND METHODS	: CORRECTION
FOR THE TREATMENT OF CANCER	:
	:

This is a decision on the petition filed on February 25, 2011, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by one hundred sixty-six (166) days.

The request for review of the patent term adjustment is **GRANTED**

The period of adjustment to which the patent is entitled under 37 CFR 1.702(a) is 267 days.

The period of adjustment to which the patent is entitled under 37 CFR 1.702(b) is 150 days.

Patentees dispute the 14 and 40 day reductions for the submission of replacement drawings and what applicant contends was a response to the Notice of Allowance after the mailing of the Notice of Allowance on November 5, 2010 and November 19, 2010. Patentees contend that the submission of the drawings should result in a 5 day reduction, instead of 14 day reduction. Patentees further state the 40 day reduction should be removed as the submission on November 19, 2010 is not considered a failure to engage. Thus, a total of 54 (14 + 40) days should be removed.

Patent No. 7,858,331 Application No. 11/441,289 Page 2
Patentees' argument has been considered and determined to be
persuasive. 37 CFR 1.704(c) provides that:

Circumstances that constitute a failure of the applicant to engage in reasonable efforts to conclude processing or examination of an application also include the following circumstances, which will result in the following reduction of the period of adjustment set forth in § 1.703 to the extent that the periods are not overlapping:

(10) Submission of an amendment under § 1.312 or other paper after a notice of allowance has been given or mailed, in which case the period of adjustment set forth in § 1.703 shall be reduced by the lesser of:

i) The number of days, if any, beginning on the date the amendment under § 1.312 or other paper was filed and ending on the mailing date of the Office action or notice in response to the amendment under § 1.312 or such other paper;

or

(ii) Four months;

A review of the record confirms the submission of drawings on November 5, 2010 should result in a reduction of 5 days, instead of the 14 days. The reduction is calculated beginning November 5, 2010 and ending on November 9, 2010, the date as response to the amendment and drawings was mailed. As such the 14 day reduction will be removed.

Pursuant to MPEP 2732, the response to the Notice of Allowance provided on November 19, 2010 does not constitute a failure to engage. As such the 40 day reduction will be removed.

Thus the total reduction for patentees' delay totals 251 (122 + 90 + 34 + 5) days.

Nothing in this decision shall be construed as a waiver of the requirement of 35 U.S.C. 154(b)(4) that any civil action by an applicant dissatisfied with a determination made by the Director under 35 U.S.C. 154(b)(3) be filed in the United States District Court for the District of Columbia within 180 days after the grant of the patent.

The application is being forwarded to the Certificate of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **one hundred sixty-six (166)** days.

The \$200.00 petition fee set forth in 37 CFR 1.18(e) has been assessed. No additional fees are required.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3215.

A handwritten signature in cursive script, appearing to read "Charlema Grant".

Charlema Grant
Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,858,331 B2

DATED : December 28, 2010

DRAFT

INVENTOR(S) : D'Andrea et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 112 days

Delete the phrase "by 112 days" and insert – by 166 days--



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ETHAN D. CIVAN
170 SOMERSET DRIVE
BLUE BELL PA 19422

MAILED

AUG 05 2010

OFFICE OF PETITIONS

In re Application of
Abadi, Joseph
Application No. 11/441,298
Filed: May 25, 2006
Attorney Docket No. 2006-0505-US

DECISION ON PETITION
TO WITHDRAW
FROM RECORD

This is a decision on the Request to Withdraw as attorney or agent of record under 37 C.F.R. § 1.36(b), filed June 28, 2010.

The request is **APPROVED**.

A grantable request to withdraw as attorney/agent of record must be signed by every attorney/agent seeking to withdraw or contain a clear indication that one attorney is signing on behalf of another/others. The Office will require the practitioner(s) to certify that he, she or they have: (1) given reasonable notice to the client, prior to the expiration of the reply period, which the practitioner(s) intends to withdraw from employment; (2) delivered to the client or a duly authorized representative of the client all papers and property (including funds) to which the client is entitled; and (3) notified the client of any replies that may be due and the time frame within which the client must respond, pursuant to 37 CFR 10.40 (c).

The request was signed by Ethan D. Civan on behalf of all attorneys/agents of record who are associated with Customer Number 55863. All attorneys/agents associated with Customer Number 55863 have been withdrawn. Applicant is reminded that there is no attorney of record at this time.

All future correspondence will be directed to the first-named inventor, Joseph Abadi, at the address indicated below.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-3206. All other inquiries concerning either the examination or status of the application should be directed to the Technology Center.

Liana Walsh
Petitions Examiner
Office of Petitions

cc: JOSEPH ABADI
2069 WEST STREET
BROOKLYN NY 11223



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450

Joseph Abadi
c/o Brad Rosen
2069 West St
brooklyn NY 11223

MAILED

JUL 06 2011

OFFICE OF PETITIONS

In re Application of
Joseph ABADI
Application No. 11/441,298
Filed: May 25, 2006

:
:
:
:

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed May 27, 2011, to revive the above-identified application.


The petition is **GRANTED**.

The application was held abandoned for failure to reply in a timely manner to the Notice of Allowance and Fee(s) Due mailed September 30, 2010, which set a statutory period of reply of three (3) months. The application became abandoned December 31, 2010. A Notice of Abandonment was mailed January 13, 2011.

The petition satisfies the conditions for revival pursuant to 37 CFR 1.137(b) by including (1) a reply in the form of payment of the issue and publication fees in accordance with the Notice of Allowance and Fee(s) Due, (2) a petition fee of \$810, and (3) a statement of unintentional delay. The reply to the Notice is accepted as having been unintentionally delayed.

Telephone inquiries regarding this decision should be directed to Robert DeWitty, Petitions Attorney, Office of Petitions (571-272-8427).

The application file will be referred to Office of Data Management for further processing.


Anthony Knight
Director
Office of Petitions



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Patent No. : 7743898B2
Serial No. : 11/441308
Inventor(s) : Martin Gerlach
Issued : June 29, 2010
Title : CLUTCH ARRANGEMENT HAVING A RADIALY NESTED DESIGN
Docket No. : DKT 05040 (BWI-00207)

Re: Request for Certificate of Correction

Consideration has been given your request for the issuance of a certificate of correction for the above-identified patent under the provisions of Rule(s) 1.322, or 1.323.

The alleged error appearing in the printed patent is a change made in accordance with the Style Manual of the Government Printing Office and the Patent Data Base Entry Preparation Manual, in the Foreign Application Priority Data.

The second correction in Column 1, Line 13 is not in The Specification submitted on 5/25/2006. A fee should be paid for the Certificate of Correction to be issued; therefore, no Correction is in order here under Rules 1.322 or 1.323.

In view of the foregoing, your request, in this matter, is hereby denied.

Tasneem Siddiqui
For Mary Diggs (Supervisor)
Decisions & Certificates
of Correction Branch
(703) 756-1593 or (703) 756-1814
Date: 9/17/10

Address: Philip R. Warn
WARN, HOFFMANN, MILLER & OZGA, P.C.
P.O. BOX 70098
ROCHESTER HILLS, MI 48307
UNITED STATES

ts/md

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE : 12/21/11

TO SPE OF : ART UNIT: 1628 Attn: FETTEROLF BRANDON J (SPE)

SUBJECT : Request for Certificate of Correction for Appl. No.: 11/441311 Patent No.: 8067399

CofC mailroom date: 12/06/2011

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES:

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

**Certificates of Correction Branch (CofC)
Randolph Square – 9D10-A
Palm Location 7580**

**Note: Please check References Cited
For the requested changes on the PTOLSB44 Form**

Tasneem Siddiqui

Should these corrections be made or not

**Certificates of Correction Branch
703-756-1814 & 703-756-1593**

Thank You For Your Assistance

The request for issuing the above-identified correction(s) is hereby:

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**

Specify below which changes do not apply.

☐ **Denied**

State the reasons for denial below.

Comments: _____

/Brandon Fetterolf/

AU1628

SPE

Art Unit

SPE RESPONSE FOR CERTIFICATE OF CORRECTION

DATE

8-20-10

Paper No.: _____

TO SPE OF

ART UNIT

2874

SUBJECT

Request for Certificate of Correction for Appl. No.:

11/441312

Patent No.:

7686474

Please respond to this request for a certificate of correction within 7 days.

FOR IFW FILES: Please check Inventors

Please review the requested changes/corrections as shown in the **COCIN** document(s) in the IFW application image. No new matter should be introduced, nor should the scope or meaning of the claims be changed.

Please complete the response (see below) and forward the completed response to scanning using document code **COCX**.

FOR PAPER FILES:

Please review the requested changes/corrections as shown in the attached certificate of correction. Please complete this form (see below) and forward it with the file to:

Certificates of Correction Branch (C of C)
Randolph Square 9C62-D
Palm Location 7580

Ennis Young

Certificates of Correction Branch

703-756-1542

Thank You For Your Assistance**The request for issuing the above-identified correction(s) is hereby:**

Note your decision on the appropriate box.

☒ **Approved**

All changes apply.

☐ **Approved in Part**Specify below which changes **do not** apply.☐ **Denied**

State the reasons for denial below.

Comments: Changes are consistent with the original declaration filed 1/17/2007./Sung H. Pak/, Primary Examiner, AU2874/UYEN-CHAU N. LE/2874**SPE****Art Unit**



UNITED STATES PATENT AND TRADEMARK OFFICE

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ROSENTHAL PAUERSTEIN SANDOLOSKI AGATHER LLP
755 EAST MULBERRY STREET AVE
SUITE 200
SAN ANTONIO TX 78212

MAILED

JUN 21 2011

OFFICE OF PETITIONS

In re Application of :
Enrique Franco :
Application No. 11/441,486 : **DECISION ON PETITION**
Filed: May 26, 2006 :
Attorney Docket No. 80762.00004 :

This is a decision on the petition under the unintentional provisions of 37 CFR 1.137(b), filed May 18, 2011, to revive the above-identified application.

The petition is **GRANTED**.

The application became abandoned for failure to reply in a proper and timely manner to the final Office action mailed, August 17, 2010, which set a shortened statutory period for reply of three (3) months. No extensions of time under the provisions of 37 CFR 1.136(a) were obtained. Accordingly, the application became abandoned on November 18, 2010. A Notice of Abandonment was mailed April 25, 2011.

The petition satisfies the requirements of 37 CFR 1.137(b) in that petitioner has supplied (1) the reply in the form of a Request for Continued Examination (RCE) and fee of \$405.00 and the submission required by 37 CFR 1.114; (2) the petition fee of \$810.00; and (3) a proper statement of unintentional delay.

Telephone inquiries concerning this decision should be directed to the undersigned at (571) 272-7751.

This matter is being referred to Technology Center AU 3635 for processing of the Request for Continued Examination under 37 CFR 1.114 and the Amendment filed with the instant petition.

/Joan Olszewski/
Joan Olszewski
Petitions Examiner
Office of Petitions



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United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
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**VEDDER PRICE P.C.
222 N. LASALLE STREET
CHICAGO IL 60601**

MAILED

AUG 05 2011

OFFICE OF PETITIONS

In re Application of :
James W. Abel. :
Application No. 11/441,517 : DECISION ON PETITION
Filed: May 26, 2006 : UNDER 37 CFR 1.78(a)(3)
Attorney Docket No. 393336.00.0002 :

This is a decision on the petition under 37 CFR 1.78(a)(3), filed July 22, 2011, to accept an unintentionally delayed claim under 35 U.S.C. § 120 for the benefit of priority to the prior-filed nonprovisional Application No. 11/441,517, set forth in the amendment filed concurrently with the instant petition.

The petition is **DISMISSED**.

A petition for acceptance of a claim for late priority under 37 CFR 1.78(a)(3) is only applicable to those applications filed on or after November 29, 2000. Further, the petition is appropriate only after the expiration of the period specified in 37 CFR 1.78(a)(2)(ii). In addition, the petition under 37 CFR 1.78(a)(3) must be accompanied by:

- (1) the reference required by 35 U.S.C. § 120 and 37 CFR 1.78(a)(2)(i) of the prior-filed application(s), unless previously submitted;
- (2) the surcharge set forth in § 1.17(t); and
- (3) a statement that the entire delay between the date the claim was due under 37 CFR 1.78(a)(2)(ii) and the date the claim was filed was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional.

The instant petition does not comply with item (1) above.

The amendment submitted concurrently with the instant petition as drafted is unacceptable and, therefore, is not considered a proper reference under 36 CFR 1.78(a)(2)(i). In this regard, the amendment states, "This application is a continuation-in-part of and claims the benefit of and priority from U.S. Application Serial No. 11/441,517, filed May 26, 2006." It is unclear how the instant application can be a continuation-in-part of itself.

Further, a reference to add the above-noted, prior-filed applications on page one following the first sentence of the specification has been included in a concurrently filed amendment. However, the amendment is not acceptable as drafted since it improperly incorporates by

reference the prior-filed applications. Petitioner's attention is directed to Dart Industries v. Banner, 636 F.2d 684, 207 USPQ 273 (C.A.D.C. 1980), where the court drew a distinction between a permissible 35 U.S.C. § 120 statement and the impermissible introduction of new matter by way of incorporation by reference in a 35 U.S.C. § 120 statement. The court specifically stated:

Section 120 merely provides a mechanism whereby an application becomes entitled to benefit of the filing date of an earlier application disclosing the same subject matter. Common subject matter must be disclosed, in both applications, either specifically or by an express incorporation-by-reference of prior disclosed subject matter. Nothing in section 120 itself operates to carry forward any disclosure from an earlier application. In re deSeversky, supra at 674, 177 USPQ at 146-147. Section 120 contains no magical disclosure-augmenting powers able to pierce new matter barriers. It cannot, therefore, "limit" the absolute and express prohibition against new matter contained in section 251.

In order for the incorporation by reference statement to be effective as a proper safeguard against the omission of a portion of a prior application, the incorporation by reference statement must be included in the specification-as-filed, or in an amendment specifically referred to in an oath or declaration executing the application. See In re deSeversky, *supra*. Note also MPEP 201.06(c).

Accordingly, before the petition under 37 CFR 1.78(a)(3) can be granted, a substitute amendment¹ correcting the claim for the benefit of priority and deleting the incorporation by reference statement, along with a renewed petition under 37 CFR 1.78(a)(3), is required.

Further correspondence with respect to this matter should be addressed as follows:

By mail: Mail Stop PETITIONS
Commissioner for Patents
Post Office Box 1450
Alexandria, VA 22313-1450

By hand: Customer Window located at:
U.S. Patent and Trademark Office
Customer Service Window Randolph Building
401 Dulany Street
Alexandria, VA 22314

By fax: (571) 273-8300
ATTN: Office of Petitions

Any questions concerning this matter may be directed to Alicia Kelley-Collier at (571) 272-6059.

/Liana Walsh/
Liana Walsh
Petitions Examiner
Office of Petitions

¹ Note 37 CFR 1.121